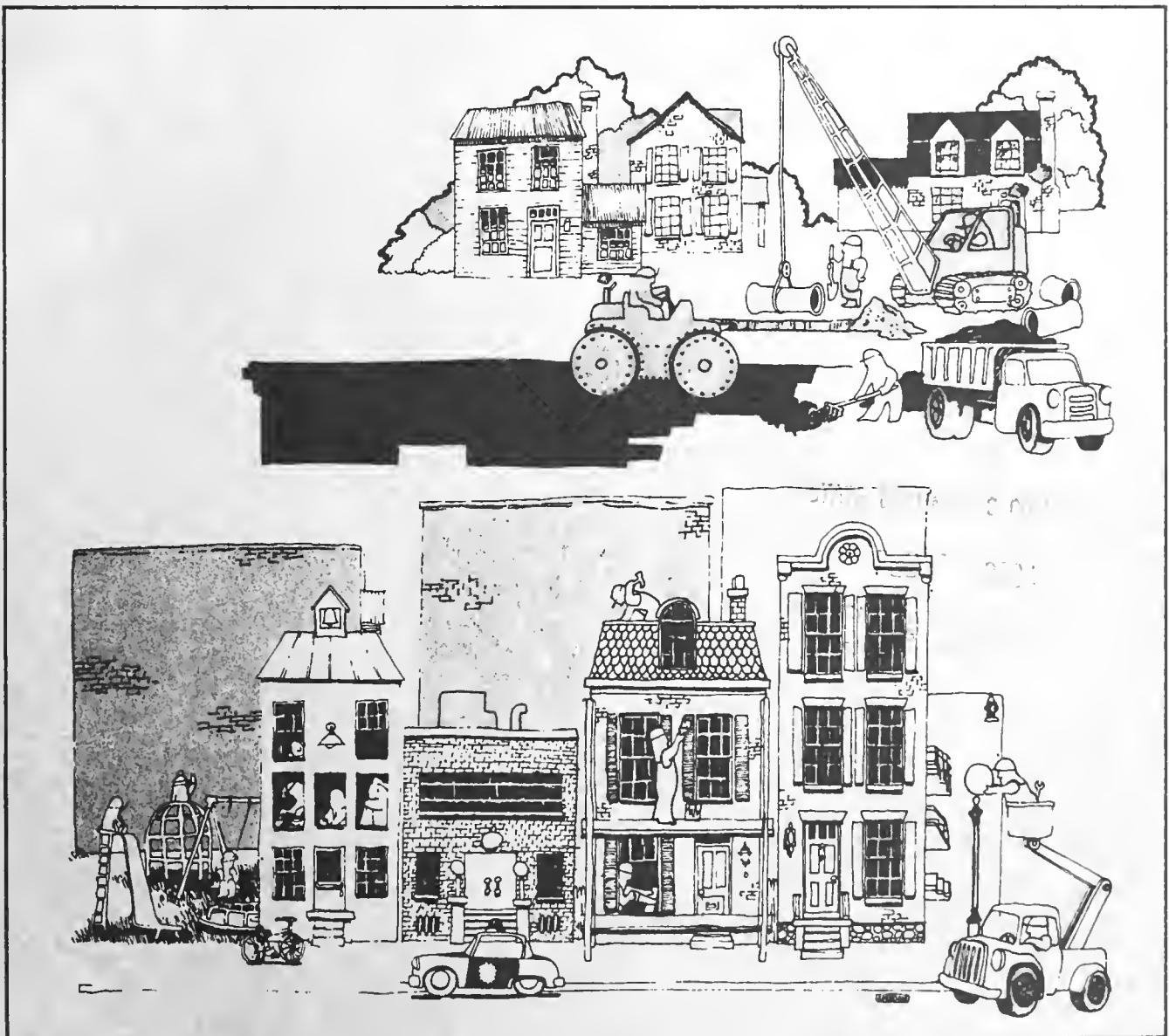


Montana Community Development Block Grant Program 1984 APPLICATION GUIDELINES



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MONTANA

COMMUNITY DEVELOPMENT

BLOCK GRANT PROGRAM

APPLICATION GUIDELINES

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I. INTRODUCTION

BACKGROUND

The Community Development Block Grant (CDBG) Program was established by the federal Housing and Community Development Act of 1974 and is administered nationally by the U.S. Department of Housing and Urban Development (HUD). The Act combined eight existing categorical grant programs into a single block grant program which is designed to help communities meet their greatest community development needs, with primary emphasis on assisting persons of low and moderate income.

The national CDBG Program is divided into two major categories:

1. "entitlement" communities which are communities with 50,000 or larger populations. In Montana, only Billings and Great Falls are entitlement communities; they receive CDBG funds on a formula basis and are directly under HUD administration.
2. "non-entitlement" communities are communities with populations under 50,000. Allocations for the non-entitlement program are established for each state on the basis of a statutory formula. The "non-entitlement" CDBG program was commonly referred to as the "Small Cities" Program and has been an important source of funding for Montana communities for dealing with a variety of community development problems. Grants were awarded by HUD through an annual state-wide competition which used a national rating system to evaluate applications. In the seven years that HUD administered the program for Montana, 46 cities, towns and counties competed successfully for over \$23 million in grants.

In recent years, the non-entitlement funding levels for Montana have been as follows:

Fiscal Year 1980	\$ 5,756,000
Fiscal Year 1981	\$ 5,595,000
Fiscal Year 1982	\$ 6,109,000
Fiscal Year 1983	\$ 6,327,000

Funding for 1984 is estimated to be about \$7,718,000.

STATE ADMINISTRATION OF THE CDBG PROGRAM

In 1981, Congress amended the federal Housing and Community Development Act to make the non-entitlement portion of the Community Development Block Grant program available as an optional State-administered program with the State totally responsible for the program. Prior to this time the only State role had been the technical assistance provided to Montana communities in the preparation of their grant applications and participation in HUD's evaluation and ranking of applications.

Comments received from the public at a series of block grant briefings held in September, 1981, was overwhelmingly supportive of State administration of the CDBG Program. The Montana League of Cities and Towns and the Montana Association of Counties also both endorsed state take-over of the program. As a result, Governor Ted Schwinden sought and received authorization from the November, 1981 special session of the Legislature to assume administration of the program beginning with the fiscal year 1982 funding cycle.

Extensive federal regulations accompany the program. The Montana Department of Commerce will use a small portion of the State CDBG allocation for administration of the program. The funds will be used to supplement existing Department resources to meet federal regulatory requirements and to support related technical assistance and project monitoring activities.

DEVELOPMENT OF THE MONTANA CDBG PROGRAM

In December, 1981, Gary Buchanan, Director of the Department of Commerce, appointed a task force to advise the Department in the development of Montana's CDBG Program. The 1982 CDBG program reflected the recommendations of the task force for the objectives of the State's program and the administrative framework to be used to allocate CDBG funds to Montana communities.

Following the 1982 CDBG competition, Gary Buchanan appointed another committee of local officials to evaluate the performance of the first year of the State CDBG program and to recommend any necessary modifications prior to the 1983 grant competition. The 1983 program description reflected the efforts of that committee and the Department of Commerce to respond to the concerns or suggestions that local officials or staff submitted during the first year or offered at a series of four public hearings held across the State in April, 1983.

With the conclusion of the 1983 CDBG competition, the Department of Commerce began its evaluation of the 1983 program and preparation of guidelines for the 1984 grant competition. In July, 1983, the Montana League of Cities and Towns sent a memorandum to all counties and municipalities requesting comments and suggestions regarding possible changes in the State CDBG Program guidelines. In December, 1983 the Department provided a summary of all comments received to local officials and solicited further comments.

In November, 1983, President Reagan signed the Housing and Urban-Rural Recovery Act of 1983 which included major amendments to the CDBG enabling legislation. These changes apply to the Fiscal Year 1984 Montana CDBG Program and, in general, will reduce the State's flexibility in administering the program.

In keeping with these new amendments, the Department will be incorporating the following new procedures into its administration of the program for fiscal year 1984:

1. In the event that it becomes necessary to make significant changes in the State's program guidelines during the period for which the guidelines apply, the Department will hold at least one public hearing on any such proposed change.
2. Henceforth, all interested citizens and local officials will be notified at the time of submission of the Department's annual performance report to HUD. Copies of the report will be available on request for public review and comment.

The Department of Commerce will provide public access, with reasonable notice, to any of its files pertaining to the past use of CDBG funds under the State CDBG Program at its offices in Helena, Montana.

PAST GRANT AWARDS

1982 Grant Awards

1982 was the first year for which the State administered the CDBG program. Congress mandated that states which assume administration of the CDBG program honor HUD's prior funding commitments to multi-year projects. The following five communities were awarded funds from Montana's 1982 State allocation on this basis:

<u>Multi-Year Grantee</u>	<u>Amount</u>
Butte-Silver Bow	\$ 598,000
Kalispell	453,000
Missoula	495,000
Polson	425,000
Shelby	<u>546,000</u>
Total	\$2,517,000

Forty-eight communities submitted applications for the \$3,470,000 available for award to new applicants, as follows:

<u>Project Category</u>	<u>Number of Applicants</u>	<u>Amount Requested</u>
Economic Development	5	\$ 1,418,771
Housing	7	2,800,000
Public Facilities	<u>36</u>	<u>9,064,207</u>
	48	\$13,282,978

The thirteen highest ranked applicants were awarded grants as follows:

<u>Applicant</u>	<u>Project Category</u>	<u>Grant Amount</u>
Madison County	public facilities (solid waste)	\$ 81,073
Alberton	housing	400,000
Judith Basin County (Geyser)	public facilities (sewer)	102,106
Sheridan County (Antelope)	public facilities (water & sewer)	190,020
Sweet Grass County	economic development	334,071
Big Horn County (Wyola)	public facilities (water)	245,236
Moore	public facilities (sewer)	105,169
Winnett	public facilities (water)	359,270
Culbertson	public facilities (water)	400,000
Powell County	public facilities (solid waste)	108,900
St. Ignatius	housing	400,000
Roundup	housing	400,000
Lewistown	public facilities (sewer)	<u>343,975</u>
	Total	\$3,469,820

A more detailed summary of each of the projects awarded funds under the 1982 Montana CDBG Program is contained in Appendix D.

1983 Grant Awards -- Jobs Bill Program

In 1983, two grant competitions were conducted. The first was established by the special allocation made to the State under the 1983 federal Jobs Bill. For this program, twenty applications were received from areas having an unemployment rate higher than the State's average. \$1,283,000 was available. Grant awards were made to six communities, as follows:

<u>Applicant</u>	<u>Activities Category</u>	<u>Grant Amount</u>
Missoula (city)	housing rehabilitation	\$ 237,500
Butte-Silver Bow	public facilities	250,000
Alberton	public facilities	215,000
Plains	public facilities	244,766
Cascade County	public facilities	249,700
Anaconda-Deer Lodge	public facilities	86,036

In addition to the State's overall program objectives for the regular program, two additional objectives were added to the Jobs Bill Program. These additional objectives were:

1. To target the use of Jobs Bill dollars to areas of the State experiencing above average unemployment rates. This was accomplished by restricting eligibility to apply to those counties, and incorporated areas within them, that had a higher unemployment rate than the State average.
2. To encourage immediate impact on the employment of those who had been unemployed for fifteen of the twenty-six weeks preceding the March 24 date of passage of the Jobs Bill.

This was achieved by evaluating proposed hiring plans and the applicant's ability to get the project underway promptly as part of the ranking criteria for grant awards.

A more detailed summary of each of the projects awarded funds under the Jobs Bill CDBG Program is contained in Appendix D.

1983 Grant Awards -- Regular Program

In accordance with the federal requirement that states which assume administration of the CDBG program honor prior multi-year grant commitments made by HUD, the following two communities were awarded Fiscal Year 1983 CDBG funds:

Butte-Silver Bow	\$ 570,000
Polson	<u>425,000</u>
Total	\$ 995,000

For the regular 1983 CDBG competition for Fiscal Year 1983 funds, thirty-four applications were received for the \$5,201,820 available for award to new applicants. The application types and total amounts requested were as follows:

<u>Project Category</u>	<u>Number</u>	<u>Amount Requested</u>
Comprehensive	5	\$ 2,325,000
Single Purpose:		
Economic Development	1	400,000
Housing	8	3,200,000
Public Facilities	<u>20</u>	<u>5,111,083</u>
Total	34	\$ 11,036,083

Summary

<u>Type of Application</u>	<u>Number of New Applications</u>	<u>Amount Requested</u>	<u>Amount Available*</u>
Comprehensive	5	\$ 2,325,000	\$ 1,176,687
Single Purpose	29	8,711,083	4,033,133
Total	34	\$11,036,083	\$ 5,209,820

*The 1983 program guidelines provided for an allocation of 35% of the funds to comprehensive grants, including prior multi-year commitments, and 65% to single-purpose projects. ("Single-purpose" projects involved activities in either the economic development, housing or public facilities category. Comprehensive projects involved activities in at least two of the three categories.) The guidelines authorized the Department to adjust this by increasing or decreasing these percentages by up to 10%.

The 1983 State CDBG allocation included sufficient funds to offer tentative grant awards to fifteen applicants:

1983 Grantees

Comprehensive Projects

<u>Applicant</u>	<u>Activities</u>	<u>Amount</u>
Hill County	public facilities and economic development	\$ 500,000 (per year for 3 years)
Kalispell	housing rehabilitation and economic development	\$ 500,000 (per year for 3 years)
	Total	\$1,000,000

Single-Purpose Projects

<u>Applicant</u>	<u>Activities</u>	<u>Amount</u>
Anaconda	public facilities (sewer)	\$ 400,000
Cascade County		
(Vaughn)	public facilities (water)	362,000
Dodson	housing rehabilitation	400,000
Flaxville	public facilities (water)	21,850
Harlem	public facilities (sewer)	115,955
Joliet	public facilities (sewer)	229,090
Malta	housing rehabilitation	400,000
Miles City	housing rehabilitation	400,000
Mineral County		
(St. Regis)	housing rehabilitation	400,000
Rosebud Co.		
(Ingomar)	public facilities (water)	166,262
Shelby	housing rehabilitation	400,000
Thompson Falls	housing rehabilitation	400,000
Three Forks	public facilities (water)	<u>400,000</u>
TOTAL		\$4,095,157

A more detailed summary of each of the projects awarded funds under the 1983 Montana CDBG Program is contained in Appendix D.

If any of the tentative 1983 grantees is unable to fulfill the conditions required to secure a final commitment of funds, the tentative grant commitment will be withdrawn. At the discretion of the Director of the Department of Commerce, in the event that excess funds above the last ranked grant request are available, they may either be awarded to an unfunded or inadequately funded application from the 1983 CDBG competition which meets eligibility requirements and for which sufficient funds exist to assure adequate impact on the project proposed, or carried over for allocation through the regular 1984 CDBG competition.

II. FISCAL YEAR 1984 PROGRAM DESCRIPTION

PROGRAM GOAL AND OBJECTIVES

Goal

Consistent with Congressional intent as expressed in the federal Housing and Community Development Act, the goal of the Montana Community Development Block Grant Program is to develop viable communities by providing decent housing, healthful and safe living environments, and economic opportunities, principally for persons of low and moderate income.

National Objectives

Within the statutory requirements set out by the federal Housing and Community Development Act and HUD regulations, the State has some flexibility to design its own program objectives and procedures for program administration, and to develop criteria for selection of grant recipients. The law requires that in designing its program for allocating CDBG funds the State assure that:

...the projected use of funds has been developed so as to give maximum feasible priority to activities which will benefit low and moderate income families or aid in the prevention or elimination of slums or blight, and the projected use of funds may also include activities which are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

The 1983 amendments also state that 51% of a State's CDBG funds, taken as a whole, must be used for activities that principally benefit low and moderate income persons.

The 1984 Montana CDBG Program has responded to these mandates by requiring that each applicant document that 51% of the non-administrative funds provided for a local CDBG project must be used for activities that are clearly designed to meet the identified needs of low and moderate income persons. This assures that all projects funded under the Montana CDBG Program will meet the national objective of benefiting low and moderate income families.

Further, the 1984 application evaluation criteria have been designed to give preference to housing and neighborhood revitalization projects which make substantial efforts to "aid in the prevention or elimination of slums or blight." The criteria for public facilities give weight to projects "designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs."

State Objectives

The following section describes the State's objectives for the Montana CDBG Program.

General

1. Provide funding to communities whose needs are greater than those of other communities and whose project proposals most effectively address local needs and the goal and objectives of the Montana CDBG Program.
2. To the extent possible within the framework of federal and State statutes and regulations, and where consistent with other State policies for housing and economic and community development, create CDBG application and administrative requirements which provide flexibility for communities to design projects which are responsive to locally identified community development needs and priorities and the needs of low and moderate income persons.

3. Provide balanced and equitable program requirements that assure equal opportunity for CDBG assistance, regardless of project category or status of applicant.
4. Encourage coordinated long-term strategies for community development activities which are consistent with local planning efforts and provide incentives for further public and private investment.
5. Ensure that CDBG projects result in sound investment in Montana's communities and are administered efficiently, effectively and consistent with appropriate State and federal policies.
6. Encourage meaningful citizen participation, including low and moderate income persons, in the selection, design and implementation of local community development projects.
7. Encourage the recognition of environmental constraints on community development in order to minimize or mitigate potentially adverse impacts upon the human and natural environment.
8. Encourage the cost-effective conservation of energy and the use of renewable energy sources in community development activities.

Coordination of Resources

9. In order to increase the potential impact of limited CDBG funds, encourage the commitment and coordination of other available public or private resources for community development projects.
10. Encourage coordination and cooperation between the Montana CDBG Program and other local, State and federal agencies for the purposes of joint funding, technical assistance, and project management and monitoring.

11. Encourage interlocal cooperation and innovative design in the delivery of local public services.

Local Management Capability

12. Increase the capacity of local governments to address community development needs by supporting effective local planning and management initiatives, including capital improvements programming.

Economic Development

13. Encourage viable economic development projects that promote investment of private capital, retention of local economic enterprises, expansion of local tax bases, and provision of long-term jobs with growth potential, principally for low and moderate income, unemployed or underemployed Montanans.
14. Increase retail sales, job creation and property values in stagnating or declining commercial districts by encouraging cooperative public and private revitalization efforts.
15. Encourage effective linkages between and utilization of job training programs and private sector employment.

Housing and Neighborhood Revitalization

16. Provide decent, safe, sanitary and energy efficient housing for persons of low and moderate income by conserving and improving the condition of appropriate existing housing stock.
17. Encourage the provision of housing assistance to low and moderate income households which may be especially needy such as those with lower incomes, female heads of family, or minority, elderly or disabled members.

18. Support the revitalization of deteriorated or declining residential neighborhoods through comprehensive neighborhood improvement efforts which address housing and public facility needs, while avoiding displacement of current residents.
19. Eliminate blighting conditions in residential areas through demolition, code enforcement and related activities.
20. Encourage private sector investment in housing rehabilitation and new housing construction for low and moderate income households.
21. Encourage the creation of new housing units including adaptive reuse of suitable structures.
22. Encourage the acquisition and preparation of sites for construction of new housing units for persons of low and moderate income.
23. Increase the number of new housing units through utilization of innovative technologies, project design concepts and financial packaging.
24. Increase fair housing opportunity for low and moderate income persons by encouraging efforts by local governments to prevent discriminatory or restrictive housing practices.

Public Facilities

25. Assist communities in providing appropriate, complete and long-term solutions to serious deficiencies in public facilities which are detrimental to the public health and safety and detract from further community development, or which are necessary to meet other essential community needs.
26. Encourage development of projects for which continued long-term maintenance and operation of the facility after construction can be ensured.

27. Promote effective solutions to public facility problems, by encouraging, where practical, innovative system designs and interlocal cooperation.
28. Support the development of public facilities that promote sound community development growth patterns.

PROJECT CATEGORIES

There are three basic areas of emphasis under Montana's CDBG Program. Projects must address at least one of the following categories:

1. economic development;
2. housing and neighborhood revitalization; or
3. public facilities.

Economic Development Projects

Economic development projects should be designed to create new employment opportunities or maintain existing employment, principally for low and moderate income persons. Projects should increase economic activity in the community and result in an improvement of the community's overall economic situation.

Typical eligible activities that fall within the economic development category include: land acquisition; public facilities and other improvements in support of economic development, such as water and sewer lines, and access roads; loans for acquisition, construction, rehabilitation, or installation of commercial and industrial facilities or equipment; and employee training.

Housing and Neighborhood Revitalization Projects

Housing and neighborhood revitalization projects should be designed to increase the supply or quality of affordable dwellings

suited to the occupancy of low and moderate income individuals and families, including improvements to the existing housing stock as well as activities designed to facilitate construction of new housing units. Projects should also attempt to eliminate blighting influences within the project area in order to encourage overall revitalization of the neighborhood selected for housing activities.

Some of the activities generally associated with housing and neighborhood revitalization projects include: real property acquisition, code enforcement, rehabilitation, historic preservation, and energy conservation; clearance, demolition, and removal or relocation of buildings; rehabilitation of publicly-owned or acquired property for resale in order to provide assisted housing; rehabilitation financing; the removal of architectural barriers; and housing assistance activities for the physically or mentally disabled.

Public Facilities Projects

Public facilities projects should be designed to improve public buildings or infrastructure serving low-income persons within a neighborhood or a community.

Some of the eligible activities under this category include water and sewer facilities, solid waste disposal facilities, street improvements, property acquisition for public facilities, nonresidential senior or handicapped centers, and neighborhood facilities providing community services to residents of a project area.

ELIGIBLE ACTIVITIES

Projects may consist of one or more related activities within a general category. The activities which are eligible for funding under Montana's CDBG Program are limited to those set out by Congress in Title I of the Housing and Community Development Act of 1974, as

amended by the Housing and Urban-Rural Recovery Act of 1983. The text of the act describing eligible activities is contained in Appendix A of these guidelines. The State is responsible for insuring that activities assisted with CDBG funds are consistent with congressional intent. As a result of the Housing and Urban-Rural Recovery Act of 1983, new HUD guidelines for state administration of the CDBG program mandate adherence to existing HUD regulations regarding eligible activities. The text of the HUD regulations is contained in Appendix B; a copy of the HUD guidelines regarding the 1983 amendments is contained in Appendix C.

The following review process may prove helpful in determining whether a specific activity is eligible under the Montana CDBG Program and whether any special requirements exist which must be met as a condition of eligibility:

1. Describe the activities proposed to be paid for with CDBG funds.
2. Compare the proposed activities with the list of eligible activities authorized by Congress in the federal Housing and Community Development Act (see Appendix A).
3. If they appear eligible, compare the proposed activities with the HUD regulations for eligible activities (Subpart C, page 43558 of Appendix B).
4. If they are eligible, compare the proposed activities with the HUD guidelines regarding the new requirements established by the 1983 amendments to determine if any additional conditions were imposed by Congress.
5. Identify the project category for application purposes that the activities best fit.
6. Review the special threshold requirements for that project category.

County Applications

For projects proposed to resolve problems in unincorporated areas of a county, the county governing body is the eligible applicant. A county may apply for a project which will include activities within an incorporated city or town if the proposed activity is intended to serve all county residents, including those located in the unincorporated area of the county, as well as those within the city or town, such as a fire protection facility which would be located in the county seat and serve all residents of the county.

Municipal Applications

For projects proposed to resolve problems in an incorporated city or town, the city or town governing body is the eligible applicant. A municipality may apply for a project which would include an activity to be located outside city limits if the proposed activity will principally benefit residents of the city, such as a solid waste disposal site or a water or sewage treatment facility.

Joint Applications

In situations where two or more eligible local governments face a common community development problem, a joint application may be submitted under the following conditions:

1. the problem to be addressed lies in an area of contiguous or overlapping jurisdictions;
2. the solution to the common problem clearly requires cooperative action and is the most efficient strategy; and
3. the local governments involved have contacted the Department of Commerce and received prior approval of such an arrangement before submission of an application. Requests for approval must be submitted at least 30 days prior to the due date for applications.

The eligible local governments involved must each meet the threshold requirements for all applicants. One local government must be designated as the lead applicant and accept full responsibility for application submission and, should the application be awarded funds, for administrative and financial management during the term of the CDBG project.

All joint applications must contain a draft interlocal agreement, in accordance with the Montana Interlocal Cooperation Act (Sections 7-11-101 through 108, MCA), which identifies the responsibilities and obligations of the cooperating local governments, including long-term operation and maintenance, if applicable.

TYPES OF GRANTS AVAILABLE

There are four types of grants for which an applicant may apply. The applicant must clearly state which of the four types of grants it is submitting:

1. Single Purpose - Economic Development;
2. Single Purpose - Housing and Neighborhood Revitalization;
3. Single Purpose - Public Facilities; or
4. Multi-purpose.

Single Purpose Grants

A project submitted under the single purpose category may consist of one or more activities designed to substantially resolve a community development need. The principal activity must clearly be designed to address needs appropriate to the category applied for and must represent at least eighty percent of the non-administrative project funds requested; other proposed activities must be clearly complementary to and in support of the principal activity and enhance the overall impact of the project in resolving the identified problem.

For example, demolition and street improvements included in a housing rehabilitation project which addresses housing and neighborhood revitalization needs would be in support of the rehabilitation activity and related to the project objectives.

In order to improve cost-effectiveness for project administration, a county may apply for a grant for a project which would address the same category of community need in two or more separate unincorporated communities as long as the grant request is under the established ceiling. For example, a county can apply for a project which would provide public facilities for two unincorporated communities or a project which would conduct housing rehabilitation activities in two unincorporated communities. If considering such a project, the applicant county would want to be sure that the involved communities have an equally high level of need and that the proposed response is equally appropriate and would achieve comparable impact on the needs of each of the communities; if not, the entire application could be less competitive.

Multi-Purpose Grants

Some communities may wish to solve interrelated problems in their jurisdictions. When a community need is clearly broader than one single project category can respond to, a multi-purpose CDBG project may be more appropriate. For example, the goal of revitalizing a deteriorated residential neighborhood often requires a coordinated effort to rehabilitate substandard housing along with improvements to public facilities such as sidewalks, streets, storm drainage or lighting.

Multi-purpose CDBG projects must:

- address community development needs in at least two of the following categories:
 - (a) economic development;
 - (b) housing and neighborhood revitalization; or
 - (c) public facilities;

- demonstrate clearly to have been the result of a comprehensive assessment of community development needs;
- address a reasonable portion of the identified needs of low and moderate income persons within an appropriate, defined concentrated target area or areas;
- involve activities that are clearly interdependent and complementary and which must of necessity be carried out in a coordinated manner in order to provide the most appropriate solution and a recognizable and substantial impact upon the identified needs; and
- have a substantial, measurable impact within a reasonable period of time.

Multi-year Commitments

A funding commitment of one or two years may be requested for multi-purpose grants. Once a community has been approved for a multi-year commitment, it will not be required to compete for funds for the subsequent fiscal year of the State's commitment to the project. Funds will be provided in the subsequent year, subject to congressional and legislative appropriations, conditional upon the submittal of an acceptable work plan, and upon a determination by the Department of Commerce that the previous year's project performance report was adequate. The performance determination will be made at the time the performance report and subsequent year's work program and request for funding is submitted.

Project activities within multi-year multi-purpose project should be designed as independent components capable of achieving a significant impact upon identified community development needs during each year of the project.

Project Target Area

Multi-purpose projects must be directed towards a single concentrated area or areas of high need in order to assure adequate recognizable impact. (For small communities, the most appropriate target area may be the entire community.) The Department of Commerce may make an exception to this requirement only if the applicant can demonstrate satisfactorily that the alternative proposal is a reasonable means of addressing the identified needs. Requests for an exception must be submitted 30 days prior to the due date for application.

DISTRIBUTION OF FUNDS

Comment

Under the 1982 and 1983 State CDBG guidelines, the annual allocation available for distribution was split into two allocations: 65% for single purpose projects and 35% for comprehensive projects, without regard to the funds requested in each category.

Under that system, "single purpose" applications (economic development, housing, or public facilities) were ranked under separate but parallel criteria for each of the three project categories and competed for the same funds. "Comprehensive" applications (projects including activities in at least two of these three categories) competed only against other comprehensives.

The 1984 allocation of funds will move toward a system that more accurately reflects the need for different types of projects as evidenced by applications received from local governments. For public facilities and housing, basic needs are identified and can be planned for in advance. Experience with economic development has shown that communities become involved in job-generating activities in two types of situations: a. assistance to existing businesses to foster expansion and/or prevent closure, and b. provision of necessary public services and/or loans in conjunction with new investment in the community by a business not previously located there. These opportunities generally are not identifiable and planned for in advance, but require a timely response by the community.

Each of the four project types will receive an allocation of funds for 1984. For public facilities, housing, and multipurpose applications, the allocation will be based on need as measured by the amount of funds requested for each category by the applications submitted and accepted through the annual fall deadline. For 1984, the measure of need for economic development projects has been estimated at \$749,140 (at 10% of the total) to allow economic development funds to be available at a minimum of two times over a 12 month period. This will allow a more accurate measure of need for this type of project to be gathered during these 12 months for use in adjusting the economic development allocation up or down for the Fiscal Year 1985 CDBG program.

The system for allocating funds among projects for Fiscal Year 1984 will provide several major improvements to the State CDBG Program. The system for allocating funds to each project category described below will:

- establish funding allocations among grant categories that are responsive to local needs and demand;
- assure an equitable application competition by ranking applications only against other applications in the same category;
- speed and simplify the application ranking process; and
- allow the CDBG program to be more responsive to the unique constraints faced by local economic development projects.

Funds Available for the 1984 State CDBG Program

The amounts available for Montana's CDBG Program for federal fiscal year 1984 are approximately as follows:

*Total Fiscal Year 1984 State CDBG allocation	\$7,718,000
Less CDBG funds for State program administration and technical assistance (2.9% of total allocation)	<u>226,600</u>
Subtotal available for award to local governments	\$7,491,400

Allocation of Funds

Amount available for award to	
local governments	\$ 7,491,400
less 10% allocation for economic	
development projects	\$ 749,140
less prior commitments to multi-year	
grants:	
Hill County	\$ 500,000
Kalispell	<u>500,000</u>
Total available for allocation to	
housing, public facilities and	\$ 5,742,260
multipurpose projects	

Allocations for housing and neighborhood revitalization, public facilities, and multipurpose applications will be established on the basis of the total dollars requested for each type of grant as a percentage of the total amount requested by all applicants in these three areas. Allocations will be calculated using applications accepted and determined to be eligible for the 1984 regular grant competition. Those applications will compete only against other applications in the same project category for the total amount of funds allocated to that category.

The distribution of all funds may be subject to a shift up or down, per category, of up to 10 percent of the amount available for award to local governments at the discretion of the Director of Department of Commerce, under the following circumstances:

- if the funds remaining in a single category are insufficient to adequately fund the next highest ranked project; or
- where judgments on the overall quality of proposed projects and their consistency with the goal and objectives of the State CDBG Program would justify redistribution of funds.

If the Director of the Department determines that the final remaining balance of unallocated funds is either insufficient to achieve adequate impact for all of the next highest ranked projects or would result in unjustifiably high administrative costs relative to project impact, those unallocated funds will be carried over for distribution under the 1985 State CDBG Program.

Estimate of Funds to Benefit Low and Moderate Income Persons

The Housing and Urban-Rural Recovery Act of 1983 requires that the State estimate the amount of funds proposed to be used for activities that will benefit low and moderate income persons, excluding administrative costs. The State's estimate of funds to be used to benefit low and moderate income is based upon the following calculations:

Total estimated CDBG funds available for award to local governments	\$ 7,491,400
Less 18% ceiling permitted for local project administration	<u>(1,348,452)</u>
Sub-total	\$ 6,142,948
Multiplied by minimum 51 percent benefit required for low and moderate income persons	$.51 \times \$6,142,948 = \underline{\$3,132,093}$

Thus the State estimates that not less than \$3,132,903 of Montana's fiscal year 1984 CDBC allocation will be used to benefit low and moderate income persons. The actual amount may be higher depending upon the nature of individual projects awarded CDBG funds through the 1984 program.

GRANT CEILINGS

The total amount of CDBG funds requested by an applicant must not exceed the ceilings indicated as follows:

<u>Type of Grant</u>	<u>Ceiling</u>
Single Purpose	
Economic Development	\$374,570 for one year (no more than 50% of funds available for the year)
Housing and Neighborhood Revitalization	\$500,000 for one year
Public Facilities	\$500,000 for one year
Multi-purpose	\$500,000 per year for a maximum of two years

Applicants should apply only for the level of funding necessary to carry out the project. Grant requests must be sufficient either by themselves or in combination with other proposed funding sources to complete the proposed activities within the contract period. While grant ceilings establish the maximum amounts which may be requested, individual grants will be awarded only in amounts appropriate to the scope of the identified problem, the proposed project activities, and the needs, resources and administrative capacity of the applicant.

There are no minimum amounts required for grant requests. A community considering a relatively small grant request should consider whether the proposed project would result in questionably high administrative costs relative to the actual project cost. In these circumstances, applicants are encouraged to contact the Department of Commerce to discuss their proposed project prior to submittal of the application.

III. GENERAL POLICIES FOR ALL CDBG PROJECTS

1. Local Support for Community Development Activities

The Montana CDBG Program is intended to supplement the efforts of local governments in dealing with their most serious needs. Because of the limited funds available, the State CDBG Program cannot be expected to serve as a source of general support for on-going community development activities.

In order to increase the potential impact of limited CDBG funds, local governments are encouraged to take all appropriate available actions to support the objectives of their proposed CDBG project. Depending on the focus of the proposed project, these actions may include amending local zoning ordinances, adjusting user rates and fee schedules for public services, implementation of capital improvements and maintenance programs, creation of special improvement districts, local financial participation in the proposed CDBG project, or inclusion of private sector financing.

2. Leverage of Other Funds

"Leverage" is a term used to refer to the participation and use of non-CDBG resources in local CDBG projects. With the limited State and federal funds available for support of local community development activities, it is in the best interest of the State and Montana communities that applicants seek out and coordinate with other appropriate potential financial resources in order to increase the impact of their CDBG projects upon local needs. Other sources can include the private sector or local, State or federal funds.

3. Environmental Impact

All CDBG projects are subject to the National Environmental Policy Act and the Montana Environmental Policy Act. Both laws seek to avoid adverse impacts on the environment by mandating careful consideration of the potential impacts of any development assisted with federal funds or approved by a state agency. Applicants are encouraged to be sensitive to potential environmental impacts while their CDBG projects are first being considered and planned in order to avoid problems which could delay or even prevent a project from being implemented. Appendix E (Statement of Assurances) contains a listing of the major federal environmental statutes and regulations which will apply to all CDBG funded projects. Applicants should carefully consider these to be sure that their proposed project will comply with the laws or regulations cited. Local officials who have any concerns or questions regarding the potential environmental impacts of their proposed CDBG project or the environmental requirements should contact the Department of Commerce for guidance.

IV. GENERAL THRESHOLD REQUIREMENTS FOR ALL CDBG PROJECTS

In order to be eligible for an award of CDBG funds, applicants must comply with all of the following requirements.

1. Benefit to Low and Moderate Income

Each applicant must document in its application that a minimum of 51 percent of the non-administrative funds requested for a CDBG project will be used for activities that are clearly designed to meet identified needs of persons of low and moderate income in the area. Applicants must also demonstrate that any activities proposed will not benefit moderate income persons in a manner which would exclude or discriminate against low income persons.

The Housing and Urban-Rural Recovery Act of 1983 has established a national definition of "low and moderate income" for CDBG purposes which is the same as that utilized in Montana's program for Fiscal Years 1982 and 1983: a person or household whose total gross, unadjusted income does not exceed 80% of the median income for all persons or households in that county. "Low income" is defined as a person or household whose total gross, unadjusted income does not exceed 50% of the median income for all persons or households in that county. Under the new law, states must utilize the income limits used for the HUD "Section 8" Assisted Housing Program, as Montana has done for the last two years.

Compliance with the benefit to low and moderate income requirement will be calculated on an activity-by-activity basis. While more detailed direction is provided in the HUD regulations and guidelines for the State CDBG Program (Appendices B and C), the following general guidelines can be used in determining, on a case-by-case basis, projects (activities) which benefit low and moderate income households:

- the project has income eligibility requirements that limit the benefits of the project to low and moderate income persons; or
- the project does not have income eligibility requirements but serves an area where at least 51 percent of the residents are low and moderate income persons and provides services for such persons; or
- the activity must be carried out prior to or as an integral part of a project which will principally benefit low and moderate income persons (e.g., extension of water and sewer lines to permit construction of low income housing, etc.); or
- involves employment of persons, a majority of whom are persons of low and moderate income.

The removal of architectural barriers to the handicapped and elderly will be assumed to principally benefit low and moderate income persons in the absence of evidence to the contrary.

Applicants proposing to use CDBG funds for area-wide activities must provide income data to demonstrate that at least 51% of the persons who would benefit from CDBG assistance have low or moderate incomes.

The 1983 Housing and Urban-Rural Recovery Act also established conditions for demonstration of benefit to low and moderate income for certain CDBG-eligible activities. Applicants should review the text of these statutory conditions in Appendix A in conjunction with the HUD regulations and guidelines in Appendices B and C to determine their applicability to any project under consideration.

Census data for each Montana community may be ordered from the Montana Department of Commerce, Census and Economic Information Center. Maps identifying the enumeration districts within each county

may also be ordered from the Census and Economic Information Center, Montana Department of Commerce, Capitol Station, Helena, Montana, 59620, (telephone 444-2896). Microfiche copies of the county enumeration district maps are available free; paper copies of the maps may be purchased.

Applicants intending to conduct local surveys of household income must utilize the income levels established for their county according to the various household sizes contained in Appendix F.

Applicants should follow the current Department of Commerce guidelines for conducting local income surveys. If an applicant intends to use an alternative format or methodology, it must seek prior approval from the Department of Commerce before conducting the survey.

2. Number of Applications Permitted Per Applicant

Eligible applicants may submit only one application under the Fiscal Year 1984 Montana CDBG Program.

3. Re-application

A current recipient of a single year or multi-year funding commitment under the Fiscal Year 1982 or 1983 CDBG Programs is not eligible to reapply for the 1984 CDBG program until at least 75 percent of its total grant amount has been drawn from the grantee's CDBG funding reserve or until all project activities have been completed. Any reapplying current grantee with an uncompleted project must provide a schedule for completing the existing project.

This requirement may be waived only in the event that an applicant can document the existence of unusual, extenuating circumstances and satisfactory progress in completing existing grant activities. Requests for waivers of this requirement must be submitted in writing to the Department of Commerce, not less than thirty days prior to the date CDBG applications are due.

The re-application requirement does not apply to recipients of CDBG funds made available under Public Law 98-8, the "Jobs Bill" of March, 1983.

4. Management Capacity

To be awarded a grant under the CDBG Program, an applicant must have the management capacity to undertake and satisfactorily complete the project it is proposing. Based upon evidence in the application and unless generally available information raises a question concerning an applicant's capacity, an applicant is assumed to have the capacity to undertake the proposed project. If any question arises during the evaluation of the application, the Department of Commerce may request additional information. The following factors will be considered in assessing an applicant's management capacity:

- performance in implementing other projects supported by State or federal funds;
- compliance with applicable State and federal laws and regulations, and the resolution of findings made as a result of previous State and/or federal monitoring or financial audits;
- ability to undertake the proposed activities and to ensure that funds will be expended in a timely, efficient and proper manner;
- ability to maintain and support the proposed project after completion; and
- qualifications and experience of the person(s) or agency(ies) to be responsible for project implementation and completion. (If individuals or agencies have not been identified at the time of grant application, an applicant should include preliminary position descriptions for the persons to be responsible for administration of project finances and day-to-day project management. Final assignment of administrative responsibility may be established after grant award.)

Extensive federal regulations must be complied with in administering CDBG funds. (Appendix E contains a listing of the major federal statutes and regulations which apply to CDBG projects.) If an applicant does not feel that it currently has the management capacity to manage a CDBG grant, it may propose to hire administrative staff or arrange for project administration by another local government through interlocal agreement or by contracting for administrative services, after grant award. In all cases, the applicant must assume direct responsibility for proper financial management of CDBG funds awarded to it.

Local officials having any concern regarding the responsibilities involved in administering a grant or the local government's capability to administer the type of project under consideration should contact the Department of Commerce for guidance.

5. Citizen Participation

Applicants must provide citizens, especially low and moderate income residents, an adequate opportunity for meaningful involvement in the planning and development of CDBG applications. Examples of actions applicants may take to ensure citizen participation include meeting with community groups and leaders prior to public hearings, holding informational meetings in proposed project areas, and distributing notices of public meetings to residents in the proposed project area.

At a minimum, the applicant must hold two public hearings, one before preparing the application and one prior to passage of a resolution by the governing body authorizing the submission of the application. The public hearings may be conducted either as part of a regularly scheduled meeting of the governing body or as hearings convened especially for CDBG purposes.

The purpose of the first public hearing is to inform citizens about the CDBG program, how it may be used, the variety of activities eligible for funding and other general program requirements, as well

as to solicit public comment, particularly from low and moderate income people, on community needs and priorities for economic development, housing and public facilities, including the needs of low and moderate income persons. In considering the needs of low and moderate income, the governing body is encouraged to consider the needs of households which may be especially needy, such as those with lower incomes, female heads of family or minority, elderly or disabled members.

The purpose of the second public hearing is to give citizens and potential beneficiaries of the proposed project adequate opportunity to review and comment on the community's CDBG application, including the proposed project location, activities, budget (including the estimated amount proposed to be used for activities that will benefit low and moderate income), and, if appropriate, the plans of the grantee for minimizing displacement of persons as a result of activities assisted with CDBG funds, before the community submits its application.

Notice of each public hearing must be published at least once in a newspaper of general circulation in the community not less than seven days prior to the hearing. In addition to the required notices, the applicant should make reasonable efforts to inform citizens of the hearings who may be affected by a CDBG project but who might not be reached through formal newspaper notices. Such efforts might include the distribution of leaflets or notices to local organizations or churches, or posting of notices in ways customary to the community. These efforts should be especially concentrated in any neighborhood which may be affected by a proposed CDBG project. The hearings should be scheduled at times and locations which will encourage broad citizen participation.

A record of the required hearings must be submitted with the application for CDBG funds, along with copies of the public notices for the hearings and affidavits of publications, for the notices. A verbatim record is not necessary; the names of persons who attended and a summary of comments by local officials and citizens is sufficient.

6. Community Development Needs Assessment

The Urban-Rural Recovery Act of 1983 requires that each CDBG grantee must "identify its community development and housing needs, including the needs of low and moderate income persons, and the activities to be undertaken to meet such needs."

The new federal requirement is very similar to the needs assessment requirement incorporated in the 1982 and 1983 Montana CDBG Programs. It was intended by Congress to be an abbreviated, elementary planning process which will promote better coordinated strategies for addressing local needs, particularly as they affect low and moderate income persons.

At a minimum, the Needs Assessment must include specific sections which describe:

1. The process used to identify community development needs and establish priorities and objectives, including efforts to encourage meaningful participation of local citizens, particularly those of low and moderate income;
2. The applicant's community development needs in economic development, housing and public facilities, including the needs of low and moderate income persons, and its priorities for responding to the needs;
3. The planned activities to be undertaken to meet the identified needs; and
4. The alternative projects considered for CDBG funding and the rationale for selecting the proposed project(s).

The project proposed in the community's CDBG application does not have to be the highest priority community need. There are a number of reasons, including the availability of other, more appropriate local, State or federal resources, which would justify submitting a CDBG application for other than the top-ranked community need.

The CDBG Needs Assessment requirement is not intended to duplicate the on-going local comprehensive planning process being used by many Montana communities. To the contrary, as an initial step in the needs assessment process applicants should review their existing comprehensive plan and community development objectives. The needs assessment requirement can also provide an opportunity to review existing capital improvements, economic development, or housing plans, to determine if they still adequately reflect current conditions, needs, and community goals.

The needs assessment process does not have to be conducted annually for applicants re-applying for CDBG funds if a previously prepared needs assessment still accurately reflects existing conditions and community development objectives and meets the requirements set out above. If an existing needs assessment will be used as the basis for re-application, the applicant should solicit public comments on the previously identified community needs and priorities at one or more of the public hearings required by Section 5. Citizen Participation.

There is no one recommended procedure for preparing a community development needs assessment. In the past, some local governments have assigned the needs assessment to an existing local planning board. Others have formed special short term committees or utilized community-wide town meetings, neighborhood meetings, or community surveys. Whatever approach is followed, the applicant must, at a minimum, meet the citizen participation requirements described in the previous section, 5. Citizen Participation.

A summary of the applicant's Community Development Needs Assessment must be submitted as part of the CDBG application. The summary should not exceed five pages in length.

7. Justification for Grant Request

Each applicant must demonstrate that the proposed CDBG activities offer a solution to an identified community development need which could not reasonably be accomplished by the applicant without CDBG assistance. The applicant must substantiate that other private or local, state or federal resources are not available to address the identified need and must justify the level of local financial participation in the proposed project.

8. Budget

Each applicant must propose a budget which is sufficient to assure effective administration and timely project completion. (Budget forms will be provided with the 1984 CDBG application materials.) The budget must be accompanied by a narrative justification for the specific proposed CDBG project activities and related administrative costs, including a breakdown of total project costs which identifies sources and amounts of all non-CDBG funds to be used. The cost estimates for each item in the proposed budget must be explained in the narrative. If other sources of funds are needed to complete the project, the status of these funds and how they will be used with CDBG funds should also be described.

The total budget of any proposed CDBG project should be divided between "activity costs" (such as "public facilities construction" or "housing rehabilitation") and "administrative costs." The administrative budget covers the costs of implementing a local project, including costs involved in preparing the required environmental review; the cost of the local project audit; and other contractual costs for professional services that may be associated with administration of the program. In no case may the administrative budget for the grant exceed 18 percent of the total grant requested. (The average administrative budget for the 1983 CDBG recipients was 10%.)

Administrative costs must be appropriate and commensurate with the project being undertaken. Any proposed administrative costs must be eligible, fully supported, and explained. Costs which can be specifically attributed to a project activity should be reflected in that budget rather than in the administrative budget (e.g.; appraisal costs would go under land acquisition, housing inspections would go under housing rehabilitation, etc.) Applicants which propose to contract for project management assistance must specifically itemize this amount in the administrative budget and explain it.

Under no circumstances are costs incurred prior to award of the grant (such as application preparation fees, costs associated with conducting a local survey, and preliminary engineering studies) eligible for reimbursement in the event of a grant award.

The Montana Department of Commerce will operate under U.S. Office of Management and Budget (OMB) Circular A-87 (Cost Principles for State and Local Governments) and Circular A-102 (Uniform Requirements for Assistance to State and Local Governments). The guidelines contained in these documents will generally describe the eligible grant costs and methods of grant administration.

Applicants should be especially careful to see that all potential costs for carrying out the project are identified prior to submitting the application.

Consideration should be given to costs such as:

- conducting the environmental review and publishing required public notices;
- Davis-Bacon (prevailing wage) construction costs;
- preparation of reports;
- travel;
- staff training;
- legal services;
- acquisition of land or easements;
- appraisals;

- relocation;
- bookkeeping;
- audit;
- compliance with state and federal requirements;
- engineering design;
- construction inspections; and
- day-to-day project management activities specific to the type of project proposed.

9. Public or Private Sector Commitments

If public or private sector resources are to be involved in a proposed CDBG project, the applicant must provide evidence of the firm commitment of those resources. Such commitments should be binding, contingent only upon the award of CDBG funds for the project.

In documenting a public commitment, the public agency must specify the amount and use of the funds or resources. Funds or resources committed by a local government must take the form of a resolution by the governing body. Funds or resources from a State or federal agency must be confirmed by letter. The commitment of funds or resources may be made on the condition that CDBG funds are made available for the activity proposed to be undertaken.

In documenting a private commitment, the private participating party must specify the amount of the commitment and use of the funds. The commitment must be contained in a legally enforceable contract; the commitment of resources may be made on the condition that CDBG funds are made available for the activity proposed to be undertaken. If any portion of the activity is to be self-financed, the private participating party must provide evidence of its financial capability through a corporate or personal financial statement or through other appropriate means.

10. Program Income

"Program income" is any income earned by a grantee from CDBG supported activities such as repayments of principal and interest to a local revolving loan program for housing rehabilitation. These funds are often received after a project has been completed and closed out and may be retained at the local level, with prior Department approval, to be used for community development activities eligible under the CDBG program. An applicant proposing to retain program income must submit, with its application, a plan for the on-going use and financial administration of program income.

Under a new provision established by the Housing and Urban-Rural Recovery Act of 1983, the State may establish a grant condition which requires a grantee to return any program income to the State. The State may then use the program income to fund additional eligible CDBG activities. The State must waive this condition "to the extent such income is applied to continue the activity from which such income was derived," and the grantee can retain the program income.

The use of program income is governed by Attachment E of OMB Circular A-102. Those regulations provide that if program income is earned during the term of the project it must be added to funds committed to the project and used to support CDBG eligible activities or spent on costs budgeted for CDBG funds before the grantee can request an additional drawdown of funds from its CDBG project account.

Except as provided in the grant agreement or project closeout agreement with the Department of Commerce, program income received after project closeout may be treated by the grantee as miscellaneous non-CDBG revenue with this exception: in the event that a community is a recipient of CDBG funds at a later date, HUD regulations require that program income from an earlier CDBG project be expended on activities under the new CDBG project before the community can request funds from its new grant.

Communities planning to utilize program income for future CDBG eligible activities must be prepared to maintain the following records:

- sources of program income;
- dates and amounts of program income deposits;
- interest earned;
- dates and amounts of all disbursements of program income;
and
- the activities funded with program income.

These records must be available for review in the event that the community is an applicant for CDBG funds at a later date.

11. Resolution of Authority

Each application for CDBG funds must be accompanied by a copy of a resolution or motion duly adopted or passed as an official act by the applicant's governing body which:

- authorizes the submission of the application;
- cites the applicant's legal authority under Montana law to conduct the activities proposed in the application;
- states the applicant's willingness to abide by the CDBG Statement of Assurances; and
- authorizes the applicant's chief elected official to act on its behalf in regard to the application and to provide such additional information as may be required.

The Department of Commerce will accept the applicant's statement of legal authority unless it is aware of evidence to the contrary.

12. Federal and State Requirements

Each applicant must agree to comply with the federal and state requirements set out in Appendix E (the CDBG Statement of Assurances)

in implementing their proposed CDBG project, if selected for funding. Applicants should carefully review these requirements and consider their potential impact when designing their CDBG project. These laws cover a wide range of issues including environmental impacts, labor standards, employment practices, financial procedures, and civil rights, many of which can have an affect on the costs or complexity of project administration. Local officials who have any questions or concerns regarding the applicability of these requirements should contact the Department of Commerce for guidance.

13. Documentation

Each applicant should identify the source of supporting data for any claims made in the application. If local research was conducted to support the application, such as a survey of housing conditions or income levels, the survey method must be described and a copy of the survey form with a composite summary of all responses submitted with the application.

Before conducting a local survey, applicants should review the current Department of Commerce guidelines for conducting community surveys as well as the model formats available for population characteristics, income levels, and housing condition surveys.

If an applicant intends to use an alternative methodology or format, it must seek prior approval from the Department before conducting a local survey.

The applicant may use a survey conducted previously if it still accurately reflects local conditions.

All original documentation must be retained by the applicant and made available for review in the event that the application is tentatively selected for funding. The lack of adequate documentation to substantiate information contained in the application will be

considered sufficient grounds for the Department to re-rank an application and, if justified, to withdraw a tentative grant award.

14. Maps

Each applicant must submit clearly legible maps which illustrate the applicant's political jurisdiction and the proposed project area. Applicants are encouraged to submit maps at the minimum size and scale that will clearly convey all required information. Applicants may submit maps of a different scale where this will increase clarity. More than one type of information may be combined on one map if the information is clearly legible when combined. The maps must be reproducible by photocopying; therefore, color designations should not be used.

Political Jurisdiction Map

The map of the applicant's political jurisdiction must identify:

- the boundaries of the entire jurisdiction;
- the project's location within the jurisdiction;
- if applicable, the service area of the project; and
- the location of any areas with concentrations of minority and low and moderate income persons, including number and percent.

This last requirement will be used to demonstrate compliance with Title VI of the Civil Rights Act of 1964 which states:

"No person in the United States shall, on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

Project Area Map

The map of the proposed project area must identify:

- the boundaries of the project area; and
- the locations of all proposed activities such as land to be acquired, buildings to be demolished, streets or water lines to be reconstructed, and blocks where housing will be rehabilitated.

All project activities must take place within the project area boundaries, unless specifically authorized by the Department of Commerce.

Maps identifying the enumeration districts within each county may be ordered from the Census and Economic Information Center, Montana Department of Commerce, Capitol Station, Helena, Montana 59620, (telephone 444-2896). Microfiche copies of the county enumeration district maps are available free; paper copies of the maps may be purchased.

Maps of Montana's counties, cities and towns can also be ordered from the Montana Department of Highways, Planning and Statistics Bureau, 2701 Prospect Avenue, Helena, Montana 59620 (telephone 444-6119.)

15. Displacement

CDBG grantees must provide for reasonable benefits to any person involuntarily and permanently displaced as a result of the use of CDBG funds to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to property not governed by the federal Uniform Relocation Act.

The Housing and Urban-Rural Recovery Act of 1983 requires each State to minimize the displacement of persons which may occur as a result of activities assisted with CDBG funds. When a proposed CDBG project will result in direct or indirect displacement of community

residents, the applicant must describe the actions to be taken to assist such persons to remain in their neighborhoods when they prefer and to provide equitable and reasonable benefits to those persons who will be involuntarily and permanently displaced. The adequacy of each displacement mitigation proposal will be assessed on the basis of:

- its responsiveness to displaced persons needs;
- the timeliness of the remedy; and
- the reasonableness of projected costs.

V. APPLICATION EVALUATION AND RANKING

Economic development applications will be evaluated according to the procedures and criteria described on pages 93 through 107.

The Montana Department of Commerce will award CDBG funds for the following three grant categories on the basis of an annual competition:

- single purpose housing and neighborhood revitalization,
- single purpose public facilities, and
- multipurpose.

Applications for all categories will be evaluated by applying ranking criteria against proposed project activities. These criteria have been established to identify projects which are well planned and most clearly further State and national objectives for the CDBG program. Each application will be evaluated only against others competing in the same category.

The selection of the appropriate grant category is the applicant's responsibility. If an application is submitted under an inappropriate category, the Department reserves the right to review it under the proper category. If it is determined that it is necessary to change the category of an application, the applicant will be notified.

Local officials having any concern or questions regarding the proper category for the CDBG project they are considering should contact the Department of Commerce for guidance as early as possible in the process of preparing an application.

Any project under consideration for a CDBG application should be compared against the evaluation criteria for the appropriate grant category. Not all the criteria in each category are of equal importance. Each criterion has been assigned a number representing its relative importance or weight. By reviewing the criteria and the

weight in potential points assigned to them applicants should have a better sense of the major issues involved in designing a competitive proposal and the relative effort which should be devoted to responding to each criterion.

The individual applications submitted under each project category will vary depending upon the project activities proposed, the size and character of the municipality or county applying, and each applicant's unique response to its own particular community's specific needs. Because no purely quantitative measures exist which can anticipate the variety of potential community development needs and all responses to them, the ranking must be in part subjective. In evaluating the applications the Department will take into account not only how well each applicant addresses the problems it has defined, but also how its problems and responses compare with those of other applicants in the same grant category.

RANKING PROCESS

Upon submission, Department of Commerce CDBG staff will review each application for completeness and for conformance to federal and State requirements. In general, information submitted by the applicant after the due date for applications will not be considered unless specifically requested by the Department. Applicants are expected to keep the Department informed of any developments during the review process which would adversely affect the viability of the proposed project. The Department may contact the applicant to obtain omitted information, to clarify issues, or to verify information contained in the application.

Ranking teams for each project category will be appointed by the Director of the Department of Commerce from State agency staff. Team members will be selected based on their knowledge and experience in public facilities, housing, public administration, economic or community development, or in program or financial management. Applications will be evaluated by the ranking teams using the appropriate

criteria and numerical point systems described in these CDBG application guidelines. The ranking teams will serve in an advisory capacity to the Director regarding the applications that should be considered for CDBG awards. Consequently, the evaluation sessions of the ranking teams are not "meetings" for purposes of the Montana Open Meeting Law (Section 2-3-203, MCA).

The Department may supplement application materials, as needed, by consulting public or private agencies knowledgeable about proposed projects or particular community problems. The Department will provide for outside technical review of applications by other public or private agencies or professionals when deemed necessary to assure adequate review. Site visits may be made to the proposed project area for the purpose of verifying or further evaluating information contained in the application.

After reviewing each application and any technical review comments, the ranking team will assess the degree to which the proposed project responds to each of the applicable criteria. Scores will be awarded for the assigned level according to the point values established for the criteria. The lack of a response will result in zero points. If the ranking team determines that the applicant has inadequately documented specific claims made in responding to a criterion, it may assign the application a lower score than would otherwise have been assigned. Likewise, numerical or percentage claims will only be accepted and considered valid to the extent to which they are substantiated by accompanying documentation.

The ranking team's deliberations and the evaluation of applications are not subject to the provisions of Sections 1-3-101 through 2-3-114, MCA, concerning public participation in governmental decisions.

Based upon the order of scores for the applicants in each category, the ranking teams will submit their recommendations for grant awards to the Director of the Department for his consideration. The final decision on grant awards will be made by the Director. The actual number and types of awards will be subject to funding availability, and the amount of each applicant's request, and the procedures set out under "Distribution of Funds." In the event of tie scores, projects will be selected on the basis of the Director's judgment of the overall quality of the proposed projects and their consistency with the goal and objectives of the Montana CDBG Program.

THRESHOLD REQUIREMENTS AND RANKING CRITERIA

The following sections set out the special thresholds requirements for each grant category which must be met in order for an applicant to be eligible for an award of CDBG funds, as well as the ranking criteria applicable to each grant category. Each category has its own set of criteria which are used to rank projects applying under that category.

single-purpose housing and neighborhood revitalization	pages 51-69
single-purpose public facilities	pages 71-86
multipurpose	pages 87-92
single-purpose economic development	pages 93-107

VI. THRESHOLD REQUIREMENTS AND RANKING CRITERIA FOR
HOUSING AND NEIGHBORHOOD REVITALIZATION PROJECTS

SPECIAL THRESHOLD REQUIREMENTS

In addition to the general requirements which are applicable to all CDBG projects, applicants for a housing and neighborhood revitalization grant must meet the following special threshold requirements in order to be eligible for an award of CDBG funds.

1. Housing and Neighborhood Revitalization Plan

The applicant must submit a short (5 page maximum) description of its plan for addressing local housing needs and revitalizing residential neighborhoods. The description should include, at a minimum, discussion of the following elements:

Need

What are the housing needs of the residents of the community, particularly those of low and moderate income households?

Goals

What is the community attempting to accomplish through its total housing and neighborhood revitalization plan (not just that activity for which CDBG funding is sought)?

Resources

What public and private resources, both financial and technical, does the community have available to it to help carry out the housing and neighborhood revitalization plan?

Strategy

What strategy is the community using to pursue its housing and neighborhood revitalization goals?

Results

Any quantifiable results from past housing or neighborhood revitalization efforts should be identified. For example, how many new units have been constructed, existing units rehabilitated, or units not suitable for rehabilitation demolished? What blighted areas have been addressed and how?

Note: It is not necessary that the applicant follow the above format in describing its plan for responding to local housing and neighborhood revitalization needs. The description may combine or reorder the description of these elements, as long as all are addressed.

The following are some possible topics the applicant may wish to consider in preparing responses to the required plan elements. The examples given for each of the elements are merely suggestive of possible responses and should not be considered to be an exhaustive listing of desirable plan elements.

Needs

The description of needs should include a discussion of the condition of the existing housing in the community, including the number of standard and substandard units, with particular emphasis on the housing conditions for low and moderate income households. The number of substandard units suitable for rehabilitation should be identified separately from those not suitable for rehabilitation. Estimates should be made of vacancy rates for non-seasonal available units in standard condition. If the plan includes community-wide map(s) depicting housing conditions, a copy should be attached.

Needs are usually classified and described by tenure (owner or renter) and household type (elderly, female head of household, physically handicapped, developmentally disabled, small families and non-elderly persons, and large families (those with six or more children), particularly as these groups are composed of low and moderate income households.

The applicant may also consider any special needs of low income households separately from moderate income.

The description of needs could also discuss the extent of blighting conditions in the community, the extent of infrastructure problems related to that blight, building abandonment, the percentage of housing built prior to 1950, housing costs, or similar indicators of housing need or neighborhood decline.

Goals

Goals might include trying to conserve and/or upgrade existing housing stock, encouraging rehabilitation of historical structures, providing additional rental housing, encouraging the development of new housing, providing more adequate housing for particular groups with special needs (the elderly, the handicapped, female heads of households or minorities), or attempting to provide housing choice for persons of low and moderate income outside areas of low income or minority concentration. The list of the State's CDBG objectives for Housing and Neighborhood Revitalization provides other examples which could be adapted for local goals. (See pages 14-16.)

Resources

Resources may be of a wide variety. For example, does the community have a local housing authority or similar body? Has any agency or organization assigned staff members to work on housing activities for a major portion of their time? Has the financial community demonstrated its willingness to participate in housing development

activities? Do any community organizations exist which might participate in a housing and neighborhood revitalization program? Are home weatherization services available through a human resource development council or low interest loans from the power company? Are energy audits available through local utilities? Has the local government considered any regulatory or other actions to encourage property maintenance or improvements or to eliminate blighting conditions, such as code enforcement or establishment of tax incentives for building remodeling authorized by Section 15-24-1501, MCA.

Strategy

Strategy might include a description of the strategy the community is using to pursue its housing and neighborhood revitalization goals, including increasing housing choice for low and moderate income. For example, what specific activities have been identified as components of that strategy? Which has been assigned first priority? second? third? How much will each cost? What funding sources have been identified for each? Have any funding commitments been received? What will the local government do to support these activities? Has it considered making any improvements to public facilities and services to support its housing and neighborhood revitalization goals? What actions will be taken to affirmatively further fair housing opportunities?

Results

Results might include a discussion of the projects the community has already undertaken to meet local housing needs, the sources of funding that were used (HUD, FmHA, private, etc.), and other actions the community has taken to encourage improvement of housing conditions (code enforcement, neighborhood weatherization programs, provision of land for new housing development, extension of utilities to areas previously lacking them, etc.).

2. Code and Standards Enforcement

Applicants proposing housing activities must submit a description of their plan to ensure enforcement of applicable federal and State housing and building standards for the housing units to be assisted with CDBG funds. These standards include the following:

- HUD Section 8 Housing Quality Standards;
- HUD Cost-Effective Energy Conservation Standards (CEECS);
- National Electrical Code, as amended;
- Uniform Plumbing Code, as amended;
- Uniform Mechanical Code;
- Uniform Building Code (where rehabilitation involves structures with five or more units, or any commercial buildings);
and
- any locally adopted codes.

Permits must be obtained from the Building Codes Division of the Montana Department of Administration, for all electrical and/or plumbing work undertaken with CDBG funds unless the grantee has been certified by Division to enforce the codes cited above. In such cases, permits will be obtained locally. Grantees will be responsible for assuring that such work is inspected by proper authorities. Options to provide code inspection may include interlocal agreements with governments with existing building departments, arrangements with the Building Codes Division of the Montana Department of Administration, or by contracting with qualified, private sector persons.

All electrical and/or plumbing work not done by the owner of the structure must be done only by electricians and/or plumbers licensed by the State of Montana. A current listing of licensed individuals is available from the Professional and Occupational Licensing Division of the Montana Department of Commerce.

3. Targeting of Housing and Neighborhood Revitalization Projects

Housing and neighborhood revitalization projects must be directed or "targeted" towards a single concentrated area of high need in order to assure adequate recognizable impact. (For small communities, the most appropriate target area may be the entire community.) The Department of Commerce may make an exception to this requirement only if the applicant can demonstrate satisfactorily that the alternative proposal is a reasonable means of addressing the identified needs. Requests for an exception must be submitted 30 days prior to the due date for application.

All project activities must take place within the target area boundaries.

4. New Housing Construction

CDBG funds cannot generally be used for the construction of new permanent residential structures or any program to subsidize or finance new construction, except as provided under the last resort housing provisions set forth in 24 CFR Part 42. Activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site and public improvements, and certain housing preconstruction costs are not considered as subsidizing or financing new residential construction, and therefore are eligible for CDBG funding.

5. Housing Rehabilitation Guidelines

The Housing and Neighborhood Revitalization grant category allows a variety of activities which can be directed toward improving or preserving residential areas and providing decent, safe, and sanitary housing for low and moderate income families including housing rehabilitation, site acquisition and clearance, demolition of substandard vacant buildings or improvements to public facilities.

Historically under the CDBG Program, housing rehabilitation has been the major focus of local CDBG housing projects. "Rehabilitation" includes using CDBG funds to make repairs to substandard residential structures to make them meet or exceed the requirements contained in current editions of the standards listed in Section 2, above. The following sections set out the State's basic guidelines for local housing rehabilitation activities.

Local Rehabilitation Guidelines

The CDBG Program allows communities considerable flexibility in designing and implementing local housing rehabilitation programs. The community may define its target area for rehabilitation activity, the persons eligible to receive assistance, the level of rehabilitation activity to be performed, the types of financing techniques to be used, and the contracting and inspection procedures to be followed.

In view of the extent of Montana's needs for rehabilitation of substandard housing and the comparatively limited CDBG funds available, the Department of Commerce encourages applicants to address the following in their rehabilitation guidelines:

- the targeting of assistance to those low and moderate income households which may be especially needy, such as those with lower incomes, female heads of household, or elderly, handicapped or minority members;
- the establishment of a ceiling on the amount of funds to be spent on any one household;
- policies to encourage comprehensive rehabilitation work on individual units to restore them to a safe, decent and sanitary condition and provide a suitable living environment; and
- policies to discourage non-essential rehabilitation work so that more housing units needing basic repairs or improvements can be addressed.

A summary of the basic guidelines to be followed for a proposed housing rehabilitation project should be included in the CDBG application.

County Legal Authority for Housing Rehabilitation

In an August, 1983 opinion, Attorney General Mike Greeley held that:

1. A county with general government powers has no inherent authority to administer a program for the rehabilitation of privately owned housing under the CDBG block grant program.
2. A county housing authority has implicit statutory power to administer the CDBG project for the rehabilitation of privately owned housing, and a general power county government may therefore administer the CDBG program through a county housing authority.
3. A county with general government powers and a city generally may not enter into an interlocal agreement under which the county could administer the CDBG project for the rehabilitation of privately owned housing.
4. If the city has created a municipal housing authority, the municipal housing authority and county may enter an interlocal agreement under which the county may administer the CDBG project for the rehabilitation of privately owned housing within ten miles of the city limits.

Housing Condition Surveys

For the purposes of local housing surveys, the State CDBG Program will utilize the definition of "substandard buildings" contained in the latest authorized edition of the Uniform Housing Code published by

the International Conference of Building Officials. In order to provide a common standard to allow for comparison between communities, the Department of Commerce has prepared a housing condition survey which is consistent with the code definition. Applicants planning to conduct a local survey should use the Department's form or its equivalent. To ensure the acceptability of local housing data gathered for CDBG application purposes, the applicant must obtain prior approval from the Department if an alternative form will be used.

Year-around Occupancy

Housing to be rehabilitated with CDBG assistance must be intended for year-around occupancy.

Mobile Homes

Mobile homes and manufactured houses must conform to the following requirements in order to be eligible for rehabilitation with CDBG funds:

- the unit meets or exceeds the standards established by the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC 5401 et seq.);
- the unit and the land it rests on is in common ownership; and
- upon completion of rehabilitation activities, the unit will be attached to a foundation which cannot reasonably be relocated and which conforms to the Montana Department of Revenue criteria for assessment as an improvement to real property for tax valuation purposes.

The Department will waive these requirements only when it finds, based on information provided by the grantee, that no alternative affordable housing is available for residents of such units in the community.

RANKING CRITERIA

Housing and neighborhood revitalization applications will be evaluated according to the following criteria and may be assigned up to a maximum of 800 points.

NEED -- 150 points

The need for housing improvements and neighborhood revitalization generally result from the deterioration of the local housing stock or the lack of affordable housing due to an inadequate supply of rental units or due to high interest rates and energy costs. Each applicant shall provide a narrative which describes the nature of the overall housing needs within the proposed target area and any blighting influences impacting the area. Page 52 under "needs" describes a variety of indicators for housing need which may be appropriate, given the focus of the proposed housing project.

Applications proposing housing rehabilitation activities must provide a summary for the target area describing the number of:

- standard housing units;
- substandard housing units suitable for rehabilitation needing moderate and substantial repair, and
- substandard housing units, suitable for demolition.

A higher score on this criterion would likely result when:

- compared with other housing applications, the description of need indicates major and serious dilapidation or deterioration, the inadequacy of the target area housing stock in responding to the demand for housing, and the existence of severe blighting conditions in the target neighborhood, particularly as these conditions affect low and moderate income households; and
- in the case of housing rehabilitation proposals, the description of need reflects a high percentage of substandard housing units that are suitable for rehabilitation.

The applicants considered to be facing the greatest need for housing improvements and neighborhood revitalization will receive the highest score. All other applications will be ranked against the highest scoring applicants as follows:

GREATEST NEED	150 points
ABOVE AVERAGE NEED	113 points
AVERAGE NEED	75 points
BELOW AVERAGE NEED	38 points

OVERALL PROJECT PLAN -- 300 points

Four factors will be considered under this criterion:

1. Rationale for selection of the project -- 75 points.

This factor will consider the thoroughness of the applicant's:

- community development needs assessment process;
- citizen participation efforts, especially involving low and moderate income residents;
- housing and neighborhood revitalization plan, and

- the relationship of the proposed project to the needs assessment and the housing and neighborhood revitalization plan; and
- the rationale for the selection of the target area.

A higher score on this factor would likely result when:

- the applicant has thoroughly documented and assessed its overall housing and related needs, including the particular needs of both low and moderate income households (including owners and renters) and households which may be especially needy such as those with lower incomes, female heads of family and minority, elderly or disabled household members;
- the applicant has established priorities for dealing with its overall housing and related needs; has reviewed its alternatives for dealing with those needs, taking into account all local, state and federal resources; and has developed a well-reasoned and achievable long-term plan with step-by-step actions necessary to respond to local housing needs;
- there is evidence of active citizen participation, especially low and moderate income residents, in the development of the community needs assessment, the housing and neighborhood revitalization plan, and in the selection of the CDBG project and target area; and
- the applicant has demonstrated a sound rationale describing why the activities proposed are consistent with the housing and neighborhood revitalization plan, are the most appropriate ones to meet the identified needs, and has justified the approach taken to respond to the identified needs by discussing the alternatives considered before selecting this option.

Each application will receive points depending upon its response to the criterion:

BEST	75 points
ABOVE AVERAGE	56 points
AVERAGE	38 points
BELOW AVERAGE	19 points

2. Community Efforts -- 50 points

This factor will assess the applicant's efforts to resolve its identified housing and neighborhood revitalization needs through local, State or federal public resources or the private sector. The applicant should outline steps taken to secure financing or other resources, and the results of those efforts.

A higher score on this factor would likely result when:

- the applicant has documented actual production of housing units for low and moderate income families by a local housing authority or a local, State or federally supported housing sponsor;
- the applicant has offered or will offer financial inducements to the developers of low and moderate income housing;
- the applicant has established or will establish planning and zoning policies which facilitate the construction of affordable, energy-efficient housing for low and moderate income families;
- if program income from previous grants for housing rehabilitation has been received, the applicant has documented the successful use of the revolving loan funds to further address the housing needs of low and moderate income households;

- the applicant has undertaken or will undertake efforts in the community and/or project area to address the identified housing and neighborhood revitalization needs such as improvements to public facilities; aggressive code enforcement and demolition of unsafe vacant, substandard buildings; community or neighborhood "clean-up," "paint-up," "fix-up" campaigns; or establishment of tax incentives for building remodeling authorized under Montana law (15-24-1501, MCA); and
- the local governing body has officially adopted or will adopt a housing plan and has integrated or will integrate it with its local planning process; and
- the applicant has demonstrated that the level of local financial participation in the proposed project is the maximum that can reasonably be expected.

Each application will receive points depending upon its response to the criterion:

BEST	50	points
ABOVE AVERAGE	38	points
AVERAGE	25	points
BELOW AVERAGE	13	points

3. Project Strategy -- 100 points

This factor will consider the degree to which the applicant has developed a complete, well reasoned, appropriate and achievable strategy for dealing with identified housing and neighborhood revitalization needs within the target area, taking into consideration all available public and private resources and local capacity. This factor will also assess the extent to which the proposed activities represent the applicant's most effective option for achieving maximum impact on identified needs, given the complexity of the needs and the funds available for the proposed project.

A higher score on this factor would be likely when:

- the applicant has designed a comprehensive strategy for dealing with the housing needs of all tenure types, income categories, and especially needy groups, as well as substandard housing units owned or occupied by households ineligible for CDBG assistance;
- the applicant has clearly targeted a geographic area of high need, in terms of concentrations of low and moderate income and substandard housing suitable for rehabilitation, which offers a potential for generating considerable recognizable impact;
- the project supports and implements a comprehensive community housing and neighborhood revitalization strategy;
- the applicant is coordinating all available public and private resources with CDBG activities to respond to the identified needs in order to achieve maximum impact from limited CDBG funds and benefit to low and moderate income persons;
- the applicant will undertake specific local actions to address identified problems in the target area through administrative actions such as code enforcement or through programming of improvements to public facilities, such as street or sidewalk repairs;
- the applicant will provide related housing services to the community in support of the housing and neighborhood revitalization project such as housing rehabilitation counseling, provision of rehabilitation workshops for non-CDBG eligible residents, or outreach or referral programs to publicize non-CDBG options for financing home improvements;
- the proposed financing terms and techniques are appropriate to the income levels of community residents and consistent with prudent management of scarce public funds;

- the proposed project is feasible, given the level of identified needs, time schedule, and available resources. (For example: the number of units proposed to be assisted in a rehabilitation project is reasonable, given the requested level of funding; if acquisition and demolition are proposed, there are units available to accommodate the relocation of all displaced households; or if land assemblage is proposed, firm commitments have been obtained for new construction on the sites acquired); and
- the type of housing units and cost per unit to be assisted, as well as the extent of improvements proposed, are reasonable when compared with other applicants which propose similar activities.

Each application will receive points depending upon its response to the criterion:

BEST	100 points
ABOVE AVERAGE	75 points
AVERAGE	50 points
BELOW AVERAGE	25 points

4. Project Management -- 75 points

This factor will assess the soundness and appropriateness of the applicant's plan for assuring proper management of the CDBG project including financial management of grant funds, compliance with State and federal requirements, and effective day-to-day implementation of project activities.

A higher score on this factor would likely result when:

- the applicant has thoroughly considered the administrative and technical issues involved in the proposed housing project and has developed appropriate (and perhaps innovative) responses to them. For instance, for a housing

rehabilitation project, the applicant has defined the mechanisms and procedures for conducting rehabilitation loan and/or grant negotiations with homeowners, related linkages with area financial institutions, rehabilitation cost estimates, bidding and contracting procedures, construction supervision and inspections, building code inspections, energy audits, coordination with other related programs (weatherization, for instance), and maintenance training for homeowners;

- the applicant has demonstrated adequate pre-planning to ensure that project activities can commence quickly if funds are awarded and that firm commitments exist for any other resources to be involved in the project;
- if other funding sources or organizations will be involved in the project, the applicant has described how these will be coordinated and directed;
- the applicant has considered staffing needs for day-to-day project management and financial management and has developed preliminary position descriptions, including qualifications and experience levels, or has identified the persons to whom these tasks will be assigned;
- if income is to be generated by CDBG-funded activities, a plan has been developed for the use of that money, and a mechanism has been established for its administration. (If a revolving loan fund is to be established with project income, procedures must be outlined covering loan application processing, approval, negotiation, pricing, packaging, servicing, etc.); and
- all budgeted costs are clearly reasonable and well supported; and
- if a previous grantee under the State CDBG Program, performance of project management responsibilities has been above average or superior.

Each application will receive points depending upon its response to the criterion:

BEST	75 points
ABOVE AVERAGE	56 points
AVERAGE	38 points
BELOW AVERAGE	19 points

PROJECT IMPACT -- 150 points

This factor will consider the:

- degree to which the identified needs will be met by the proposed project;
- degree to which any proposed secondary CDBG activities are clearly complementary to and in support of the principal housing activity and enhance the overall impact of the project in resolving the identified problem; and
- applicant's efforts to avoid adverse impacts from the project.

A higher score on this project would be likely when:

- a housing rehabilitation project would rehabilitate a higher proportion of substandard units in a target area than competing applications which address only a small portion of the substandard units (housing rehabilitation goals considered unfeasible or unrealistic will be discounted);
- the applicant is dealing with as much of the identified problem as possible within funding constraints;
- the proposed activities will directly relate to and significantly address with substantial benefit, the identified needs of all tenure types and special populations;
- the project will benefit a considerable number of low and moderate income persons and the benefits will be direct and significant;

- the project will expand housing opportunity and choice for a substantial number of low and moderate income persons through the provision of housing which was not available previously such as facilitating the construction of new housing or assisting in the conversion of unused commercial space to residential use;
- the project is supported by local private investments with firm commitments from developers and financial institutions and, therefore, a high likelihood exists that additional housing units will be created;
- the applicant has taken all reasonable steps to avoid adverse impact on the environment, including historic resources, and to avoid the involuntary displacement of individuals which may result from the proposed activities; and
- for projects involving improvements to public facilities as part of a coordinated housing and neighborhood revitalization project, the applicant has taken steps to assure that low and moderate income households will not be adversely affected financially by increased assessments or service charges.

Each application will receive points depending upon its response to the criterion:

BEST	150 points
ABOVE AVERAGE	113 points
AVERAGE	75 points
BELOW AVERAGE	38 points

BFNEFIT TO LOW AND MODERATE INCOME -- 200 points

This ranking criterion assesses the extent to which CDBG funds will be used to benefit low and moderate income persons by dividing the total amount of non-administrative CDBG funds proposed to be used to benefit low and moderate income households by the total amount of non-administrative CDBG funds requested by the applicant.

Applicants will be assigned four points for each documented percentage of benefit to low and moderate income persons above fifty percent. Fractional percentages will be rounded to the nearest whole number.

VII. THRESHOLD REQUIREMENTS AND RANKING
CRITERIA FOR PUBLIC FACILITIES PROJECTS

SPECIAL THRESHOLD REQUIREMENTS

In addition to the general requirements which are applicable to all CDBG applicants, applicants for a Public Facility grant must meet the following special threshold requirements in order to be eligible for an award of CDBG funds:

1. Public Facilities Plan

The applicant must submit a short (5 page maximum) description of its overall plan for meeting its public facilities needs. The description should cover, at a minimum, the following elements:

Needs

What are the community's overall problems with or needs for public facilities? What priorities exist among these needs or problems?

Goals

What overall goals is the community trying to achieve through its public facilities plan? (Not just that activity for which CDBG funding is sought.)

Resources

What financial and technical resources are available to the community to implement its public facilities plan?

Strategy

What strategy is the community following to meet its public facilities needs? What time line has been established for providing the various public facilities identified as priorities?

Results

What projects has the community already undertaken to respond to its community facility needs or to implement its public facilities plan? What results were achieved?

Note: It is not necessary that the applicant follow the above format in describing its plan for responding to local public facilities needs. The description may combine or reorder the description of these elements, as long as all are addressed.

The following are some possible topics the applicant may wish to consider in preparing responses to the required plan elements. The examples given for each of the elements are merely suggestive of possible responses and should not be considered to be an exhaustive listing of desirable plan elements.

Goals could include issues such as providing a healthful water supply or sewage disposal or upgrade public facilities in support of a neighborhood revitalization effort. The list of the State's CDBG objectives for Public Facilities provides some examples which could be adapted for local goals. (See pages 14 - 16.)

Resources could consider a wide variety of financial and technical resources potentially available to the community to implement its public facilities plan. For example, what local revenue sources are available to help finance each of the needed facilities? What other funding sources are available from state and federal government to

fund each of the community's priorities? Have all potential sources been contacted? What must be done to access those agencies' funds? What sources are most appropriate to assist with the types of projects considered priorities?

What resources for training or technical assistance are available to the community? Is the community's staff capable of maintaining existing or proposed services or facilities? If not, what training should be provided?

Strategy might include a description of the community's overall strategy for responding to public facilities needs. For example, what are the community's priorities for dealing with local public facility needs? What are "needs" and which are "wants"? What projects could provide beneficial secondary benefits, such as encouraging economic development, new housing construction or revitalizing the local business district or a residential neighborhood, that might justify giving them higher priority? Has the proposed schedule for completion of the facilities been integrated with the local budget process and does it assure coordination and sequential development of related facilities or capital improvements?

Results might include a discussion of the projects the community has already undertaken or completed to respond to its public facilities plan. What sources of funding were used (local, state, federal)? What other actions has the community taken to maintain its existing facilities or to meet its needs for replacing or constructing new or improved public facilities? What results were achieved?

2. Preliminary Engineering or Construction Report

Applicants for public facility projects must provide a preliminary engineering or construction report which is sufficiently detailed to describe the scope of the problem to be addressed as well as the components of and estimated costs for the proposed facility or improvements. The report should describe the technical alternatives considered to deal with the identified problem, the cost projections for each, and the rationale for the selection of the proposed project.

For example, those planning street improvements should indicate the total lineal feet of streets to be improved, proposed street width and use of curb and gutter. Other public improvements should be described in similar detail. Any special features in the project area which will result in an unusual facilities design or a costly design (e.g. lack of right-of-way, topography) should be described. Applicants should also indicate the sources of cost estimates for each activity.

3. Maintenance and Operation Plan

Applicants must provide a description of their plan to technically and financially maintain the proposed public facility project, or the total system of which the project is a component, over the long term.

4. Assessments for Public Improvements

The Housing and Urban-Rural Recovery Act of 1983 requires each applicant for CDBG funds to certify that it:

-- will not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

(a) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG funds; or,

(b) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the applicant certifies that it lacks sufficient CDBG funds to comply with the requirements of clause (a), above.

The new certification makes explicit a long-standing HUD policy that was incorporated in the 1983 Montana CDBG guidelines which prohibits a local government from imposing special assessments to recover that portion of a public facility project that was funded with CDBG funds. Grantees may, however, levy assessments to recover the non-CDBG portion of a jointly-funded project under the following conditions:

- if the property assessed is not owned and occupied by a low or moderate income household;
- when the property assessed is owned and occupied by a low or moderate income household if CDBG funds are used to pay the assessment on behalf of such households; or
- when the property assessed is owned and occupied by a moderate income household if the grantee specially certifies that it does not have sufficient CDBG funds to pay the assessment on behalf of all moderate income owner-occupants.

The same limitations that apply to special assessments also apply to any fees charged to low/moderate owner occupants as a condition of obtaining access to a public facility (e.g. tap-in fees or hook-up charges for connecting to public water or sewer lines).

According to current HUD regulations (see page 43559 in Appendix B):

- the term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties.

Pages 15 and 16 of Appendix C provide additional HUD guidance on this new requirement.

According to the latest direction from HUD, this new provision will apply to public facilities financed with assessments through a special improvement district or through the use of hook-up charges or tap-in fees. The provision will not apply to facilities financed through the issuance of revenue bonds.

As an example of how the new requirement could operate:

- if a community intends to finance a public facility project through the creation of a special improvement district and is requesting CDBG funds to assist it, the community would be required to use any CDBG funds awarded to it to pay the assessments for low and moderate income households;
- if the community determines that the CDBG grant ceiling is not high enough to allow it to pay assessments for all low and moderate income it would certify that fact to the Department of Commerce; and
- in the event, either:
 - request sufficient CDBG funds to pay all assessments for low income households only, or
 - request the entire grant amount available, use the funds to pay for all low income households and distribute the balance remaining among moderate income households, by prorating the amount of CDBG assistance to the amount of household income.

RANKING CRITERIA

Public facility applications will be evaluated according to the following criteria and may be assigned up to a maximum of 800 points.

TECHNICAL ISSUES -- 300 points

Three factors will be considered under this criterion.

1. Need -- 125 points

The need for public facilities or services generally results from the existence of conditions which are detrimental to the public's health, safety or general welfare. In documenting the need for the proposed CDBG project, applicants should address, as appropriate:

- the degree to which the problem affects the public's health and safety;
- the severity and immediacy of the problem;
- whether the proposed activities are necessary to comply with court orders or State or federal regulations; or
- whether the activities are necessary to prevent or eliminate blighting conditions or to support community revitalization efforts.

Priority will be given to projects designed to eliminate serious and immediate threats to the public's health or safety. In order to document that such a condition exists, applicants must submit written verification by a public or private agency other than the applicant (a state-wide agency, if possible) that existing conditions pose a threat to the health or welfare of the community or targeted population group.

The degree of the threat to the public's health or safety will be assessed by using existing criteria or recommendations of other appropriate public or private agencies, whenever possible. When

necessary, the Department will seek professional technical review by appropriate agencies to evaluate proposals in terms of the severity and immediacy of the threat to the public health and welfare. The Montana Department of Health and Environmental Sciences will be asked to review all public facility projects involving water, sewer or solid waste and to rank them from the most severe and immediate threat to the least threat, according to four levels.

The applicants considered to be facing the most severe and immediate threat to public health or safety will receive the highest score. All other applications will be ranked against the highest scoring applicants as follows:

MOST SEVERE AND IMMEDIATE	125	points
ABOVE AVERAGE	94	points
AVERAGE	63	points
BELOW AVERAGE	31	points

A higher score on this criterion would likely result when the applicant has thoroughly documented through technical reports and public or private agency comments that:

- a serious deficiency exists in a community public facility or service (or that the community lacks the facility or service entirely);
- circumstances clearly attributable to the deficiency have occurred such as serious illness, disease outbreak, substantial property loss or serious environmental pollution;
- the entire community or a substantial portion of the residents of the community are seriously affected by the deficiency; or
- the problem is existing, continual and chronic as opposed to occasional, sporadic or probable.

2. Appropriateness of the Technical Design -- 125 points

This factor will consider the appropriateness and cost-effectiveness of the technical design proposed to respond to the identified problem. This factor will also consider the degree to which the project thoroughly addresses the problem and provides a long-term solution. The score assigned will be based upon outside professional review, whenever possible. The Montana Department of Health and Environmental Sciences will be asked to review all public facility proposals involving water, sewer, or solid waste activities and to recommend a ranking score for each.

A higher score on this factor would likely result when the applicant can clearly demonstrate that:

- the technical design for the project represents the most efficient, appropriate, and cost-effective option for resolving the local public facility need, considering the size and resources of the community, the complexity of the problems addressed, and the cost of the project;
- the projected costs for the budgeted technical activities for resolving the problem are reasonable; and
- the proposed facility or service would provide a permanent or reasonably long-term solution or would substantially alleviate the identified need. A project would rank lower if it addressed only a portion of the need or there was no evidence of adequate resources to solve any remaining problem or closely related problems.

Each application will receive points depending upon its response to the criterion:

BEST	125	points
ABOVE AVERAGE	94	points
AVERAGE	63	points
BELOW AVERAGE	31	points

3. Maintenance and Operation -- 50 points

This factor will consider the soundness and thoroughness of the applicant's long-term plan for financial and physical maintenance and operation of the facility or the overall system, of which the project may be a component.

A higher score on this factor will likely result when:

- the applicant has developed a sound plan to assure long-term physical and financial maintenance of all the community's public facilities, as well as the proposed facility or system, including provision of adequate training for maintenance staff;
- the applicant has demonstrated that reasonable maintenance and operation costs will be supported by residents over the long-term; and
- if there are indications that the problem is not of recent origin or has developed because of inadequate maintenance and operation practices, the applicant has thoroughly explained the circumstances and described the actions that will be taken in the future to assure that the problem will not reoccur.

Each application will receive points depending upon its response to the criterion:

BEST	50	points
ABOVE AVERAGE	38	points
AVERAGE	25	points
BELOW AVERAGE	13	points

PROJECT PLAN -- 150 points

Two factors will be considered under this criterion.

1. Rationale for selection of the project -- 75 points.

This factor will consider the thoroughness of the applicant's:

- needs assessment process;
- citizen participation efforts, especially involving low and moderate income residents;
- public facilities or capital improvements plan; and
- the relationship of the proposed project to the needs assessment and the public facilities plan; and
- the rationale for selection of the project area.

This factor will also consider the degree to which the applicant has developed a complete, well reasoned, appropriate and achievable project for dealing with its public facility need.

A higher score on this factor would likely result when:

- the applicant has assessed its public facility needs, including the needs of especially needy households such as those with lower incomes, female heads of family, and minority, elderly or handicapped household members, and has identified and documented its deficiencies and established priorities for dealing with them;
- the applicant has reviewed its alternatives for addressing its needs, taking into consideration all local, State and federal sources and has developed a thorough and achievable long-term plan with step-by-step actions necessary to respond to local needs;
- there is evidence of active citizen participation, especially low and moderate income residents, in the development of the community needs assessment, the public facilities plan, and in the selection of the CDBG project and project area;

- the proposed CDBG project is an integral part of the capital improvements program or public facilities plan and is consistent with the goals and needs set out in it;
- the local governing body has officially adopted a public facilities plan or a capital improvements program and has integrated it with its local budget planning and adoption process; and
- the applicant has described the alternatives considered before selecting the proposed option and has developed a complete, well-reasoned and achievable proposal for dealing with the identified public facility need.

Each application will receive points depending upon its response to the criterion:

BEST	75	points
ABOVE AVERAGE	56	points
AVERAGE	38	points
BELOW AVERAGE	19	points

2. Project Management -- 75 points

This factor will assess the soundness and appropriateness of the applicant's plan for assuring proper short and long-term management of the CDBG project, including financial management of grant funds, compliance with state and federal requirements, and effective implementation of project activities. When an applicant proposes the targeting of financial assistance to low or moderate income households, this factor will also consider whether the financial and administrative mechanisms proposed are consistent with the applicant's capacity and appropriate to the normal term of a CDBG project.

A higher score on this factor would likely result when:

- the applicant has demonstrated that the activities are feasible and achievable, taking into consideration the size and resources of the community and the budget and work schedule proposed, and can be conducted consistent with applicable State and federal requirements;
- the applicant has demonstrated adequate pre-planning to ensure that project activities can commence quickly if funds are awarded and that firm commitments exist for any other resources to be involved in the project;
- if more than a single funding source or organization is involved, the applicant has described how these will be coordinated and directed;
- the applicant has incorporated features in the overall project design to assure that sound management concepts are followed for the long-term, for example, when proposing major improvements to a community water system, the applicant will institute water metering to encourage conservation and a more equitable assignment of user costs;
- the applicant has addressed environmental concerns or is in the process of addressing them and there appear to be no problems, or appropriate resolutions for identified problems have been described;
- the applicant has identified (or developed position descriptions for) the person or persons who will be responsible for day-to-day project management and financial management or has identified any contracted services to be utilized in carrying out the project;
- the applicant has developed an adequate plan for the use and administration of any program income which will result from the project;
- if targeting of financial assistance to low and moderate income is proposed, the approach used would provide reasonable administrative costs per assisted household;

could assure completion and an assessment of the grantee's performance within the term of the grant; and is appropriate and feasible given the administrative resources of the applicant; and

- if a previous grantee under the State CDBG Program, performance of project management responsibilities has been above average or superior.

Each application will receive points depending upon its response to the criterion:

BEST	75 points
ABOVE AVERAGE	56 points
AVERAGE	38 points
BELOW AVERAGE	19 points

FINANCE -- 150 points

Two factors will be considered under this criterion.

1. Need for CDBG Assistance -- 100 points

This factor will assess the degree of the applicant's need for CDBG assistance to finance the proposed project in relation to its overall financial capability, including maximum millage, outstanding indebtedness, bonding capacity, and, if applicable, the existing and proposed rate structure for the service. The applicant should discuss constraints such as existing mill levies set at the legal ceiling, outstanding indebtedness at or approaching the limits set by state law, bonding capacity insufficient to fund the entire project, continued past increases in service rates and/or existing or proposed service rates and/or existing or proposed service rates well above average.

A higher score on this factor would likely result when the applicant provides clear supporting documentation to show that all avenues to fund the proposed project with local resources have been exhausted, that the proposed project could not reasonably be accomplished without CDBG assistance, and that the proposed level of local financial participation in the project is the maximum that can reasonably be expected.

Each application will receive points depending upon its response to the criterion:

BEST	100	points
ABOVE AVERAGE	75	points
AVERAGE	50	points
BELOW AVERAGE	25	points

2. Community Efforts -- 50 points

This factor will assess the applicant's past efforts to resolve the problem with local resources and current efforts to secure alternative or additional funds from appropriate state or federal sources to finance the proposed project.

A higher score on this factor would likely result when the applicant:

- demonstrates substantial past efforts to deal with the problem through non-monetary efforts or with local financial resources by raising taxes or user charges or altering local fee schedules to the maximum reasonable extent, considering local financial constraints; and
- has made every reasonable effort to thoroughly seek out and secure alternative or additional funds from all appropriate state or federal agencies to finance or assist in the financing of the proposed project. The applicant must be

able to provide evidence of application to the potential state or federal funding sources and serious efforts to meet any applicable requirements of the agency or program to secure the commitment of alternative or additional funds.

Each application will receive points depending upon its response to the criterion:

BEST	50	points
ABOVE AVERAGE	38	points
AVERAGE	25	points
BELOW AVERAGE	13	points

LOW AND MODERATE INCOME -- 200 points

Two factors will be considered under this criterion.

1. Benefit to Low and Moderate Income -- 100 points

This ranking criterion assesses the extent to which CDBG funds will be used to benefit low and moderate income persons by dividing the total amount of non-administrative CDBG funds proposed to be used to benefit low and moderate income households by the total amount of non-administrative CDBG funds requested by the applicant.

Applicants will be assigned two points for each documented percentage of benefit to low and moderate income persons above fifty percent. Fractional percentages will be rounded to the nearest whole number.

2. Impact on Low and Moderate Income -- 100 points

This factor will assess the degree to which the needs of low and moderate income residents have been considered by the applicant and how the proposed project attempts to respond to those needs. In

particular, this factor will consider the financial impact on low and moderate income households as a result of project activities, such as increased service rates, hook-up charges, or tax assessments. Applicants must describe projected costs per household for the proposed project, with and without CDBG assistance. Projects which would provide only a marginal benefit to assisted households or those which would have a potentially negative impact on low and moderate income households would rank lower. An example of marginal impact would be a project which would only minimally reduce the cost of sewer or water service for assisted households or which would provide equal financial benefit to low and high income households. Examples of a negative impact on low and moderate income households would include substantial increase in user rates or in tax assessments.

This factor will also consider the number of low income persons to be assisted relative to the number of eligible low and moderate income persons.

Each application will receive points depending upon its response to the criterion:

BEST	100	points
ABOVE AVERAGE	75	points
AVERAGE	50	points
BELOW AVERAGE	25	points

VIII. THRESHOLD REQUIREMENTS AND RANKING
CRITERIA FOR MULTIPURPOSE PROJECTS

SPECIAL THRESHOLD REQUIREMENTS

In addition to the general requirements applicable to all CDBG projects, applications for a multipurpose grant must meet the following special threshold requirements in order to be eligible for an award of CDBG funds.

1. Community Development Plan

An application for a multipurpose grant shall include a summary of the applicant's community development plan. It shall summarize the overall community development needs of the applicant, its coordinated strategy for meeting those needs, including its long and short term objectives. The plan shall consist of the following:

Summary of Community Development Needs

The applicant must provide a narrative summary of its overall community development needs, particularly those of low and moderate income households and those households which may be especially needy such as those with lower incomes, female heads of households or minority, elderly or disabled members. The narrative must include a brief description of the major needs for economic development, housing, neighborhood or community revitalization, and community facilities and public improvements. The summary may reference material contained in the economic development plan, housing and neighborhood revitalization plan or the public facilities plan described below.

Economic Development Plan

Multipurpose applications proposing economic development activities must comply with the threshold requirements for economic development projects listed on pages 93 through 107, including the economic development plan.

Housing and Neighborhood Revitalization Plan

Multipurpose applications proposing housing and neighborhood revitalization activities must comply with the threshold requirements for housing and neighborhood revitalization projects set out in pages 51 through 61, including the housing and neighborhood revitalization plan.

Public Facility Plan

Multipurpose applications proposing public facility activities must comply with the threshold requirements for public facility projects set out in pages 71 through 79, including the public facilities plan.

2. Project Description

Each applicant for a multipurpose grant must describe, for each of the components of the proposed project (economic development, housing and neighborhood revitalization, or public facilities) its proposal for meeting identified needs. This description must address the activities to be carried out with CDBG and other funds during the term of the project; the timetable for the activities to be undertaken; the manner in which CDBG funded activities will be coordinated with local actions and other funding sources; and the activities proposed to improve conditions for low and moderate income persons.

Areas or neighborhoods targeted for coordinated action must be identified. The applicant must discuss the rationale for the selection of the target area and why the boundaries are appropriate.

3. Project Rationale

In assessing applications for multipurpose projects the Department will consider not only the factors associated with the economic development, housing and neighborhood revitalization, and public facilities components of each proposed project but also the broader issues involving the coordination and interrelationship of the components. The applicant must provide a narrative which clearly documents the project's response to the basic criteria for multipurpose projects:

- the project is the result of a comprehensive assessment of community development needs;
- the project addresses a reasonable portion of the identified needs of low and moderate income persons within an appropriate, defined concentrated target area or areas;
- the project involves activities that are clearly interdependent and complementary and which must of necessity be carried out in a coordinated manner in order to provide the most appropriate solution and a recognizable and substantial impact upon the identified needs; and
- the project will have a substantial, measurable impact within a reasonable period of time.

RANKING CRITERIA

In ranking applications for community revitalization projects the Department of Commerce will consider two factors:

Project Factor

The overall appropriateness, soundness and impact of the entire proposed project as it relates to the needs, goals, and strategy set forth in the application; and

Activity Factor

The economic development, housing and neighborhood revitalization, or public facility activities which are proposed to be conducted as components of the project, based on the criteria established for evaluating single purpose applications in each of these categories.

PROJECT FACTOR -- 400 points

The Department will evaluate the applicant's total proposed project against the criteria defining a multipurpose project. (See the criteria above, under 3. Project Rationale.)

Each multipurpose application will receive points depending upon its response to the project factor criterion:

BEST	400 points
ABOVE AVERAGE	300 points
AVERAGE	200 points
BELOW AVERAGE	100 points

A higher score on the project factor criterion would be likely when:

- the project clearly responds to the basic criteria defining multipurpose projects;
- the applicant has thoroughly assessed its local needs for the project categories to be addressed, including the needs of low and moderate income persons;
- the applicant has developed a project strategy which includes step-by-step actions necessary to address the identified needs in a coordinated manner;
- the proposed activities represent the applicant's most appropriate option for resolving the identified needs, considering the size and resources of the community, the complexity of the needs addressed, and the resources available for the proposed project;

- the coordination of the project activities will more effectively resolve the identified needs than would otherwise be possible through sequential single purpose projects; and
- the applicant has developed a realistic schedule for completing proposed activities in a timely manner.

ACTIVITY FACTOR -- 800 points

In addition to ranking the proposed project as a whole, the Department will evaluate the project components according to the ranking criteria established for single purpose applications for economic development, housing and neighborhood revitalization, and public facilities.

After the initial point scores for each of the applicable components have been determined they will be weighted and calculated for a final point score according to the percent of CDBG funds (excluding administration) proposed to be expended on each component.

For example, if three communities scored points as follows:

Activity	Community A	% of \$ in each Category	Community B	% of \$ in each Category	Community C	% of \$ in each Category
Economic Development			650	85%	750	20%
Housing	775	50%			760	30%
Public Fac- ilities	700	50%	725	15%	675	50%

They would be ranked as follows:

		<u>Economic Development</u>	<u>Housing</u>	<u>Public Facilities</u>
1st	Community A		(775 x .50) 387.5	(700 x .50) = 350 737.5 points
2nd	Community C	(750 x .20) 150	(760 x .30) 228	(675 x .50) = 337.5 715.5 points
3rd	Community B	(650 x .85) 552.5		(725 x .15) = 108.75 661.25 points

IX. APPLICATION DEADLINES, THRESHOLD REQUIREMENTS AND
RANKING CRITERIA FOR ECONOMIC DEVELOPMENT PROJECTS

APPLICATION DEADLINES

Single purpose applications for economic development will be accepted on September 15, 1984, and again on March 15, 1985, with a possible third application deadline in the summer of 1985 depending upon the availability of funds.

SPECIAL THRESHOLD REQUIREMENTS

In addition to the general requirements which are applicable to all CDBG projects, listed on pages 30 through 46, applicants for an economic development grant must meet the following special threshold requirements:

1. Economic Development Plan

The applicant must submit a short (5 page maximum) description of its plan for encouraging local economic development. The description should include, at a minimum, a discussion of the following elements:

Need

What are the community's underlying economic problems?

Goals

What is the community attempting to accomplish through its overall economic development program (not just that activity for which CDBG funding is sought)?

Resources

What public and private resources, both financial and technical, does the community have available to it to help carry out its economic development program?

Strategy

What strategy is the community using to pursue its economic development goals?

Results

What actions has the community already undertaken to implement its economic development plan? What sources of funding were used? What were the results?

Note: It is not necessary that an applicant follow the above format in describing its plan for encouraging local economic development. The description may combine or reorder the description of these elements, as long as all are addressed.

The following are some possible topics the applicant may wish to consider in preparing a response to each of the required plan elements. The examples given for each of the elements are merely suggestive of possible responses and should not be considered to be an exhaustive listing of desirable plan elements.

Need

Need factors might include recent major industry shutdowns or extended layoffs, substantial increases in population without a corresponding increase in job opportunities, substantial population decreases due to lack of available or appropriate job opportunities, a lack of industrial diversification, the existence of large numbers of workers in the area with obsolete skills or skills for which there is no current demand, or other problems unique to the applicant's community.

Goals

Goals might include trying to preserve existing businesses or industries, attempting to encourage community growth, attempting to foster industrial diversification, revitalizing the central business district, or creating complementary industries which would provide jobs in the off-season for workers now only seasonally employed.

Resources

Resources may be of a wide variety. For example, does the community have a local development corporation or similar body? Has any agency or organization assigned staff member(s) to work on economic development activities for a major portion of their time? Has the financial community demonstrated its willingness to participate in development activities? Is there an adequate available labor force to meet the demands of new or expanding businesses and industries? Does the community have some unique development advantages, e.g., location, transportation facilities, industrial park or other plant sites, available raw materials, abundant power supplies, employee training capabilities, a locally-administered revolving loan fund to assist growing businesses or industries, technical assistance programs to help business persons deal with marketing, management, or financial planning problems.

Strategy

Strategy might include a description of the specific activities that have been identified as components of the community's strategy for encouraging local economic development. For example, which has been assigned first, second, and third priority? How much will each cost? What funding sources have been identified for each? What can or will the local government do to support those activities?

Results

Results might include a discussion of actions the community has taken to encourage development. For example, has it offered property tax reductions to new or expanding industries? Has it passed the allowable one-mill levy for economic development, formed a local development corporation, or prepared industrial or tourism promotion brochures or films? What results have been achieved? How many new jobs have been created or existing jobs retained? How many new firms have begun operations in the community? How many existing firms have undertaken expansion activities?

2. Benefit to Low and Moderate Income Persons

In order to be eligible for CDBG assistance, the applicant must demonstrate that 51% of the jobs to be created or retained by an economic development project will be initially available for low and moderate income persons or be made available to low and moderate income persons through special training planned as part of the project.

3. Hiring and Training Plan

Applicants must establish procedures to ensure preferential recruitment, hiring, and training of local workers, particularly those of low and moderate income. In the event of grant award, the applicant's commitment to the hiring plan will be considered binding and will be incorporated in the grant agreement between the local governing body and the Department of Commerce. As part of the hiring plan, the applicant must include a description of how the results of the hiring process will be monitored for compliance with the 51% benefit requirement.

4. Pirating of Business

Proposals that would encourage the relocation of a business from one community to another, intrastate or interstate, will be disqualified, unless it can be shown that the firm would have been forced to close without the new location.

5. Private Sector Commitments

Applicants must provide written evidence of firm commitments of resources from the private sector. Such commitments should be binding, contingent only upon receipt of CDBG funds.

Economic development projects must match non-administrative CDBG funds with new private investment in the proposed project at a minimum ratio of one to one. Private sources may include any funds from other federal or state sources that must be repaid. Existing equipment, in-kind services or costs incurred prior to grant application will not be considered as match.

6. Public Sector Commitments

If public sector resources are to be involved in the proposed economic development project, applicants must provide written evidence of firm commitment of public funds and/or other resources. Such commitments should be binding, contingent only upon receipt of CDBG funds to the project. Evidence must include resolutions or ordinances passed by the local governing body and other appropriate local groups.

7. Use of CDBG Funds for Economic Development Loans

No grants can be made to private sector firms. The CDBG portion of the project can include loans to the private sector with interest rates to be negotiated by the Department of Commerce and the local government as a contract term.

Loans must be secured with fixed assets only: land, buildings and equipment. A subordinate position to a bank or other lending institution is acceptable.

Loan terms may range up to 30 years, depending on the useful life of the asset. Call options may be shorter than the useful life.

8. Viability of Assisted Enterprises

Any economic enterprise to be assisted with CDBG funds must document that without participation of CDBG funds the proposed activity would not be feasible and that after receipt of CDBG assistance the enterprise will be viable.

Applications must include the following forms of financial information on any economic activity proposed. If these requirements are not appropriate to a proposed project, contact the Department prior to application for guidance. Failure to submit appropriate information may result in the application being disqualified.

- a. Standard loan application forms of the SBA, the Montana Economic Development Board, or other well-accepted loan forms. Applicants with questions above the acceptability of a particular form should contact the Department before submitting the application.
- b. Personal financial statements on all individuals with 20% or more of the ownership in the proposed activity.
- c. For projects involving an owner-occupied facility, a one year pro forma must be provided.
- d. For projects involving lease of space to other activities, a ten year pro forma must be provided.
- e. Operating statements for the three most recent years of operation.

Such financial information will be considered confidential, for evaluation purposes only, and will not, except as required by law, be provided to any third person, firm, corporation or public entity without the express written consent of the business.

9. The amount of CDBG funds requested cannot exceed \$375,570 (50% of the funds available for 1984 for economic development).

RANKING CRITERIA

Economic development applications will be evaluated according to the following criteria and may be assigned a maximum of 800 points. Applicants must receive a minimum of 575 points to be eligible for funding.

VIABILITY -- 200 points

The economic activity proposed in the application will be reviewed on the basis of its potential for continued viability. In the case of business enterprises, this review will consist of a professional credit and cash flow analysis of the business(es) involved in the project. Where facilities are proposed that will remain the responsibility of the local government, this analysis will focus on the likelihood that the facility will support itself over time through its own revenues or user fees and not require additional local government support. In those instances where local governments are assuming an on-going subsidy of the project, the likelihood of that subsidy exceeding local government expectations will be assessed.

The more sound the proposal, the higher the points awarded. The more questionable the viability of the proposal, the fewer the points awarded. Applications will be ranked into the following categories:

STRONG	--	200 points
MODERATE	--	150 points
LOW	--	100 points
WEAK	--	50 points
UNLIKELY	--	0 points

BENEFIT TO LOW AND MODERATE INCOME -- 200 points

Three factors will be considered under this criteria.

1. Percent of jobs to benefit low and moderate income persons -- 75 points.

To determine this score, the number of jobs to be created or retained and made available to low and moderate income persons will be divided by the total number of jobs to be created or retained as a result of the CDBG program. The highest score will receive the maximum point score -- 75 points -- and all other applicants will be scored accordingly.

Example: Suppose there are three applicants. Community A proposes to create 40 jobs, of which 32 (80%) will be for persons of low and moderate income. Community B will create 50 jobs, of which 45 (90%) will go to low and moderate income persons; and Community C will create 35 jobs, of which 22 (62.86%) will be for low and moderate income persons. Their scores would be:

Community B: (highest % benefit, 90%)
= 75 points

Community A: (80% divided by 90%) x 75
= 66 points

Community C: (62.86% divided by 90%) x 75
= 52.5 points

Remember: To be eligible for consideration a program must demonstrate at least 51% of benefit factor for low and moderate income.

2. Number of jobs for low and moderate income persons to be created or retained -- 75 points.

This criteria looks at the number of jobs for low and moderate income persons to be created or retained by the proposed activity. The higher the number of jobs, the higher the points awarded. the application with the highest number of jobs will receive 75 points, with the others ranked according to the same procedure to be followed in 1. above.

(Note: In evaluating an applicant's job creation projections, the Department of Commerce may consider the historical relationships of sales, space, and machines to jobs and the projections of new sales, space, and machines to jobs. It may also look at typical ratios for the industry of which the firm to be assisted is a part. Applicants should be prepared to justify job creation claims.)

3. Hiring and Training Plan -- 50 points

Since a primary goal of CDBG-funded economic development grants is to increase job opportunities for local residents, particularly persons of low and moderate income, it is essential that applicants take positive actions to bring about the creation or saving of permanent, full-time employment with growth potential for persons of low and moderate income, which offers those workers an opportunity for advancement in a firm or industry. Applicants are required to indicate the percentage of jobs to be created or retained which are full-time or part-time, skilled, semi-skilled, or unskilled. Each applicant also must include in its application an hiring and training plan to be used in filling jobs created or saved as a result of CDBG activities. Assistance in the development of such a plan can be obtained from the local Job Service, trade associations, labor organizations, the National Alliance of Business, and similar groups.

A higher score on this criterion would likely result when:

- the applicant's hiring and training plan provides clear, complete procedures for outreach, recruitment, screening, selection, training, and placement of workers which will insure maximum access of local residents, particularly persons of low and moderate income, to jobs created or saved by the project;
- attention has been given to necessary supportive services for trainees needing them;
- a complete training curriculum has been developed and all training resources identified;
- responsibility has been assigned for all phases of the program and all necessary personnel and funding commitments have been received, contingent only upon receipt of CDBG funds; and
- a written agreement to follow the plan has been obtained from each firm expected to benefit directly from the program.

Applications will be ranked as follows:

OUTSTANDING	-- 50 points
ABOVE AVERAGE	-- 37 points
AVERAGE	-- 25 points
BELOW AVERAGE	-- 13 points

NEED -- 75 points

This criteria looks at the relative need of a community in comparison to other communities in the State by assessing the unemployment rate of the county for the 12 most recent months preceding the application deadline for which data is available. Point scores for this criterion will be computed by the Department of Labor based on

standard deviation methodology. The county with the highest unemployment rate will receive 75 points, with the rest assigned accordingly. Applications from cities and towns will be assigned the score for the county in which they are located.

IMPACT -- 175 points

Two factors will be considered under this criterion:

1. Soundness of economic development plan and rationale for selection -- 75 points.

This factor will consider the thoroughness of the applicants:

- community development needs assessment process;
- citizen participation efforts, especially involving low and moderate income residents; and
- economic development plan.

A higher score on this factor would likely result where:

- there has been active citizen participation, especially of low and moderate income residents, in the development of the community needs assessment, the economic development plan, and in the selection of the CDBG project;
- the applicant has developed a complete, well reasoned, appropriate, and achievable plan for dealing with its total economic development needs, taking into consideration all available public and private resources and local capacity;
- the local governing body has officially adopted the economic development plan as a matter of public policy;
- the proposed program for which CDBG funding is sought is an integral part of that plan. (It need not be the first priority item identified in the overall plan if other, more appropriate, resources are available and already being used to meet higher priority items.);

- the community has made substantial local efforts to deal with its economic development problems;
- the proposed CDBG project is realistic and workable, and the job savings or creation expected to result from its implementation will occur within a reasonable time following the date of grant award;

Applicants will be ranked into the following categories:

OUTSTANDING	--	75 points
ABOVE AVERAGE	--	56 points
AVERAGE	--	37 points
BELOW AVERAGE	--	18 points

2. Overall economic benefit of the project -- 100 points

The applicant must discuss both the direct and indirect effects the CDBG program is expected to have on the community's economy. Some of the factors which will be considered in evaluating impact are:

- the size of the additional payroll expected to be generated for the jobs created or retained by the program;
- the total number of jobs to be created or retained;
- whether the firm to be assisted is a primary industry (producing goods or services mainly to be sold outside the area or state, thereby importing dollars into the community and state);
- whether local property tax revenues will be significantly increased as a result of the proposed business start-up, expansion, retention, etc.; and
- other effects of the activity on the surrounding community, such as benefits provided to related businesses.

Since each application will be a unique response to particular community-specific needs, there can be no "right" or "wrong" activities or solutions. The ranking of this factor will necessarily be in

part subjective, with the Department taking into account not only how well each applicant addresses the problems it has defined, but also how its problems and responses compare with those of other applicants. Responses may vary considerably depending upon the size and location of the community and the type of project proposed. The ranking committee will group responses into four levels.

OUTSTANDING	--	100 points
ABOVE AVERAGE	--	75 points
AVERAGE	--	50 points
BELOW AVERAGE	--	25 points

LEVERAGE-- 100 points

In preparing its proposed program budget, the applicant is required to identify all sources of funds to be used and the amounts to be contributed by each. To be eligible for consideration, an applicant must provide at least one private, non-CDBG dollar for each dollar of CDBG funds requested (a 1:1 ratio). The non-CDBG funds may come from a variety of private sources, such as new investment by a firm to be assisted, bank loans, local development corporation loans or debentures, or loans to be repaid to a state or federal loan program.

Applicants will be ranked against each other. If, for instance, Community A has the highest leverage ratio (\$6 of non-CDBG funds for each \$1 of CDBG funds, a 6:1 ratio) and Community B has a 3:1 leverage, Community A would receive 100% of the points and Community B would receive 50% (3/6ths of 100%).

All other applicants would be similarly scored against Community A.

PROJECT MANAGEMENT -- 50 Points

This factor will assess the soundness and appropriateness of the applicant's plan for assuring proper short and long-term management of the CDBG project, including financial management of grant funds, compliance with state and federal requirements, and effective implementation of project activities. When an applicant proposes a loan to a private sector firm or another activity that will result in payments coming back to the local government, administrative mechanisms to account for this income must be outlined as well as guidelines for its use.

A higher score on this factor would likely result when:

- the applicant has demonstrated that the activities are feasible and achievable, taking into consideration the size and resources of the community and the budget and work schedule proposed, and can be conducted consistent with applicable State and federal requirements;
- the applicant has demonstrated adequate pre-planning to ensure that project activities can commence quickly if funds are awarded and that firm commitments exist for the other resources to be involved in the project;
- if more than a single funding source or organization is involved, the applicant has described how these will be coordinated and directed;
- the applicant has incorporated features in the overall project design to assure that sound management concepts are followed for the long-term;
- the applicant has addressed environmental concerns or is in the process of addressing them and there appear to be no problems, or appropriate resolutions for identified problems have been described;
- the applicant has identified (or developed position descriptions for) the person or persons who will be responsible for

- day-to-day project management and financial management or has identified any contracted services to be utilized in carrying out the project; and
- the applicant has developed an adequate plan for the use and administration of any program income which will result from the project.

Each application will receive points depending upon its response to the criterion:

OUTSTANDING	50 points
ABOVE AVERAGE	37 points
AVERAGE	25 points
BELOW AVERAGE	13 points

OVERALL SCORE

An application must receive a minimum of 575 points to be eligible for funding.

X. PROCEDURES FOR GRANT AWARD

ANNOUNCEMENT OF RANKING RESULTS AND GRANT AWARDS

As soon as possible after the selection of applicants to receive awards is completed, the Director will notify all applicants of the final results in writing. A summary of the final ranking results will be provided to each applicant.

Funds will be tentatively allocated to the selected applications. The tentative allocation of funds does not imply approval of all activities or costs proposed in the selected application. The proposed work program and budget may be subject to minor modification during subsequent contract negotiations between the applicant and the Department. The formal award of funds will be contingent upon the execution of a contract between the applicant and the Department in accordance with all applicable federal and State requirements.

RE-RANKING OF APPLICATIONS

Re-ranking may be considered in the event that an applicant tentatively selected to receive CDBG funds is unable to substantiate information contained in the application which may have been a determining factor in the ranking score received.

APPLICATION REVIEW

Department of Commerce CDBG staff will review applications with applicants on request to discuss the evaluation and ranking of their applications.

A file will be maintained for each application. After grant awards have been announced, the application files will be available for public review upon request in the Department's offices in Helena, Montana.

APPLICANT APPEAL

Appeals will be granted only on the basis of miscalculation of the arithmetic scores. In the event that the Department determines that a miscalculation of scores occurred and resulted in an application not being selected for funding that otherwise would have been selected, the Department will reserve funds from the fiscal year 1985 CDBG State allocation sufficient to fund that application. Those funds will be made available to that applicant as soon as is practicable. If any other applicant tentatively selected for fiscal year 1984 funding is unable to fulfill the conditions required to secure a final commitment of funds, the tentative grant commitment to that applicant will be withdrawn and made available to that applicant erroneously scored. The reservation of the 1985 CDBG funds would then be adjusted or cancelled, as appropriate.

XI. PROJECT START-UP PROCEDURES

AMOUNT OF GRANT AWARD

Funds will be tentatively awarded to selected applications by the Department of Commerce. The tentative award of funds does not imply approval of all activities or costs proposed in the selected application. The proposed work program and budget may be subject to modification during subsequent contract negotiations between the applicant and the Department. The Department will not grant additional funds to pay for project costs which exceed the contract grant award.

In the event a project can be completed for less than the grant amount, the difference between actual project costs and the original grant award will be reserved by the Department for unfunded or inadequately funded projects or added to the following fiscal year's CDBG allocation. The Department will amend the grant contract to reflect the reduced costs.

In certain circumstances excess funds may be used for an eligible activity which further enhances the contracted project. Before the Department makes a determination to allow the additional activity, the grantee must demonstrate that the activity will: clearly enhance the overall impact of the original project; provide adequate benefits to low and moderate income persons; be completed in a timely manner; and be able to be completed with the excess funds. The grantee must have also demonstrated satisfactory progress toward completion of the original contracted project activities.

PROJECT START-UP REQUIREMENTS

Within six months of the date of the announcement of the tentative grant award by the Montana Department of Commerce, each applicant selected for CDBG funding must:

- comply with all applicable state and federal requirements for project start-up;
- execute a grant contract;
- establish with the Department of Commerce a mechanism for transfer of CDBG funds to the grantee; and
- submit an acceptable management plan and schedule for local CDBG project administration and implementation; and
- fulfill other appropriate contract terms established by the Department.

In the event that these conditions have not been met, the tentative award may be cancelled at the discretion of the Department of Commerce, and the funds re-allocated according to the State CDBG Program project ranking and grant award procedures.

No applicant which has been tentatively selected for CDBG funding may obligate or incur costs for CDBG funds until specifically authorized in writing by the Department. Funds obligated or expenses incurred without proper authorization will be the responsibility of the grantee and cannot be reimbursed by CDBG funds at a later date. Incurring costs includes actions such as hiring staff or entering into a contract for engineering or management services or for acquisition of land.

It will take at least two months before any funds will actually be received. This delay occurs because several activities must take place in the interim. For example, the contract between the grantee and Department must be prepared, the grantee must conduct a review of environmental factors, and all the details for assuring proper management of the project and the federal funds must be finalized.

GRANT CONTRACT

After an application is tentatively selected for funding, a grant contract will be prepared. The grant contract is the legal document which governs the administration of the grant and includes the following items:

- the amount of CDBG funds to be provided;
- a detailed budget for the CDBG funds and any other funds involved in the project;
- the schedule for implementation of project activities and the scope of work to be completed; and
- the general and special terms and conditions associated with the grant.

The application as approved will become part of the grant contract.

No CDBG funds will be released to the grantee until a grant contract is fully executed. In the event that a grant contract is not executed or the applicant is unable to fulfill the terms and conditions of the contract, any costs incurred will be the responsibility of the local government and cannot be reimbursed by the Department.

COMPLIANCE WITH STATE AND FEDERAL REQUIREMENTS

It is the responsibility of all CDBG grantees to comply with all applicable federal and state laws, executive orders, and regulations affecting their projects. (These requirements are listed in Appendix E, the CDBG "Statement of Assurances.") These requirements address issues such as financial management, labor practices, environmental impacts, civil rights, fair housing, and acquisition and relocation. Compliance with these and other requirements will become specific conditions of the grant contract between the Department and the grantee.

The Department will conduct training sessions to familiarize local officials of the recipient communities with these requirements. Participation is mandatory.

COMMITMENT OF NON-CDBG RESOURCES

Grantees which will require private, or local, State or federal public resources, in addition to CDBG funds, to implement a proposed CDBG project must have completed, within six months of the date of the announcement of the tentative grant award by the Department of Commerce, all necessary arrangements to assure that those resources are available for commitment to the project. In the event that the Department is not assured that the other resources will be fully available for commitment to and participation in the project in order to guarantee timely project completion, the tentative award may be withdrawn at the Department's discretion and the funds re-allocated according to the State CDBG Program project ranking and grant award procedures. The Department encourages applicants to secure firm commitments from all non-CDBG funding sources prior to submission of their CDBG application.

No CDBG funds will be released to the grantee until firm commitments are available for all non-CDBG resources to be involved in a project. No CDBG funds may be obligated or incurred until this condition is released by the Department.

PROJECT MONITORING

During the course of the local CDBG project, the Department will monitor each grantee through periodic on-site visits and written progress reports, so that any problems which might occur may be resolved as soon as possible. It is the Department's goal to assist and support grantees in complying with applicable state and federal requirements and in implementing their project activities.

In general the Department will schedule at least two monitoring visits for each grantee. The Department will also attempt to attend pre-construction conferences to assure compliance with state and federal requirements.

Grantees will be required to maintain complete financial and program files, and to comply with program reporting requirements. Representatives of the Department, the Secretary of HUD, the HUD Inspector General, the U.S. General Accounting Office, and the Montana Legislative Auditor must be provided reasonable access to all books, accounts, records, reports and files pertaining to CDBG funded activities. Grantees must also provide citizens with reasonable access to records regarding the past use of CDBG funds.

TIMELY PROJECT COMPLETION

The grant requested, either by itself or in combination with other previously identified funding sources, must be sufficient to complete the proposed activities within a reasonable period of time, normally not more than 18 months from the date of the announcement of the tentative grant award by the Department of Commerce. The Department will consider each project separately during grant contract negotiations in order to establish a reasonable and realistic date for project completion.

The Department of Commerce reserves the right to withdraw a commitment for any CDBG funds which remain unobligated twenty-four months after the date of the announcement of the tentative grant award.

CONTRACT AMENDMENT

The Department will consider contract amendments. All grantees must request prior approval of contract amendments such as those involving new activities or alteration of the existing activities or budget or lengthening of the schedule for project implementation, as negotiated in the grant contract.

Before the Department makes a determination to allow the amendment, the grantee must clearly demonstrate that the modification is justified and will enhance the overall impact of the original project. The Department will consider each request to determine

whether the modification is substantial enough to necessitate re-evaluating the project's original ranking. If warranted the Department will analyze the proposed modification and its impact on the scores originally assigned the application.

Amendments will not be approved which would materially alter the circumstances under which the grant was originally ranked and selected.

The Department will require that a public hearing with reasonable notice be conducted by the grantee if the proposed amendment is determined to be a substantial change in project activities contained in the original application for CDBG funds.

APPENDICES

APPENDIX A

ACTIVITIES ELIGIBLE FOR CDBG ASSISTANCE UNDER THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974, AS AMENDED BY THE HOUSING AND URBAN-RURAL RECOVERY ACT OF 1983

The following includes the entire text of Section 105(a) of the Housing and Community Development Act of 1974 which describes the activities which are eligible for CDBG assistance. The underlined portions of the following pages indicate the amendments made to the Act by the Housing and Urban-Rural Recovery Act of 1983. These amendments govern the use of CDBG funds beginning with the Fiscal Year 1984 program. HUD regulations and guidelines contained in appendices B and C describe additional requirements which may affect activities under consideration for a local CDBG project.

Eligible Activities

Section 105(a) Activities assisted under this title may include only:

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) appropriate for rehabilitation or conservation activities; (C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or (E) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except buildings for the general conduct of government), and site or other improvements;

(3) Code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation (including rehabilitation which promotes energy efficiency) of buildings and improvements (including interim assistance, and financing public or private acquisition for rehabilitation, and rehabilitation, of privately owned properties and including the renovation of closed school buildings);

(5) special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly and handicapped persons;

(6) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by activities under this title;

(7) disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;

(8) provisions of public services, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare or recreation needs, if such services have not been provided by the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) during any part of

the twelve-month period immediately preceding the date of submission of the statement with respect to which funds are to be made available under this title, and which are to be used for such services, unless the Secretary finds that the discontinuation of such services was the result of events not within the control of the unit of general local government, except that not more than 15 per centum of the amount of any assistance to a unit of general local government under this title may be used for activities under this paragraph unless such unit of general local government used more than 15 percent of the assistance received under this title for fiscal year 1983 for such activities (excluding any assistance received pursuant to Public Law 98-8), in which case such unit of general local government may use not more than the percentage or amount of such assistance used for such activities for such year, whichever method of calculation yields the higher amount;

(9) payment of the non-federal share required in connection with a federal grant-in-aid program undertaken as part of activities assisted under this title;

(10) payment of the cost of completing a project funded under title I of the Housing Act of 1949;

(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate;

(12) activities necessary (A) to develop a comprehensive community development plan, and (B) to develop a policy-planning-management capacity so that the recipient of assistance under this title may more rationally and effectively (i) determine its needs, (ii) set long-term goals and short-term objectives, (iii) devise programs and activities to meet these goals and objectives, (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation;

(13) payment of reasonable administrative costs and carrying charges related to the planning and execution of community development and housing activities, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities, and including the carrying out of activities as described in section 701(e) of the Housing Act of 1954 on the date prior to the date of enactment of the Housing and Community Development Amendments of 1981;

(14) activities which are carried out by public or private nonprofit entities, including (A) acquisition of real property; (B) acquisition, construction, reconstruction, rehabilitation, or installation of (i) public facilities (except for buildings for the general conduct of government), site improvements, and utilities, and (ii) commercial or industrial buildings or structures and other commercial or industrial real property improvements; and (C) planning;

(15) grants to neighborhood-based nonprofit organizations, local development corporations, or entities organized under section 301(d) of the Small Business Investment Act of 1958 to carry out a neighborhood revitalization or community economic development energy conservation project in furtherance of the objectives of section 101(c), including grants to neighborhood-based nonprofit organizations, or other private or public nonprofit organizations, for the purpose of assisting, as part of neighborhood revitalization or other community development, the development of shared housing opportunities (other than by construction of new facilities) in which elderly families (as defined in section 3(b)(3) of the United States Housing Act of 1937) benefit as a result of living in a dwelling in which the facilities are shared with others in a manner that effectively and efficiently meets the housing needs of the residents and thereby reduces their cost of housing;

(16) activities necessary to the development of comprehensive community-wide energy use strategy, which may include items such as --

(A) a description of energy use and projected demand by sector, by fuel type, and by geographic area;

(B) an analysis of the options available to the community to conserve scarce fuels and encourage use of renewable energy resources;

(C) an analysis of the manner in, and the extent to, which the community's neighborhood revitalization, housing, and economic development strategies will support its energy conservation policy;

(D) an analysis of the manner in, and the extent to, which energy conservation objectives will be integrated into local government operations, purchasing and service delivery, capital improvements budgeting, land use planning and zoning, and traffic control, parking, and public transportation functions;

(E) a statement of the actions the community will take to foster energy conservation and the use of renewable energy resources in the private sector, including the enactment and enforcement of local codes and ordinances to encourage or mandate energy conservation or use of renewable energy resources, financial and other assistance to be provided (principally for the benefit of low- and moderate-income persons) to make energy conserving improvements to residential structures, and any other proposed energy conservation activities;

(F) appropriate provisions for energy emergencies;

(G) identification of the local governmental unit responsible for administering the energy use strategy;

(H) provision of a schedule for implementation of each element in the strategy; and

(I) a projection of the savings in scarce fossil fuel consumption and the development and use of renewable energy resources that will result from implementation of the energy use strategy;

(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project; and

(18) the rehabilitation or development of housing assisted under Section 17 of the United States Housing Act of 1937.

(b) Upon the request of the recipient of assistance under this title, the Secretary may agree to perform administrative services on a reimbursable basis on behalf of such recipient in connection with loans or grants for the rehabilitation or properties as authorized under subsection (a)(4).

(c)(1) In any case in which an assisted activity described in paragraph (14) or (17) of subsection (a) is identified as principally benefitting persons of low and moderate income such activity shall --

(A) be carried out in a neighborhood consisting predominately of persons of low and moderate income and provide services for such persons; or

(B) involve facilities designed for use predominantly by persons of low and moderate income; or

(C) involve employment of persons, a majority of whom are persons of low and moderate income.

(2) In any case in which an assisted activity described in subsection (a) is designed to serve an area generally and is clearly designed to meet identified needs of persons of low and moderate income in such area, such activity shall be considered to principally benefit persons of low and moderate income if (A) not less than 51 percent of the residents of such area are persons of low and moderate income; or (B) in any jurisdiction having no areas meeting the requirements of subparagraph (A), the area served by such activity has a larger proportion of persons of low and moderate income than not less than 75 percent of the other areas in the jurisdiction of the recipient.

(3) Any assisted activity under this title that involves the acquisition or rehabilitation of property to provide housing shall be considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons.

APPENDIX B

U.S. Department
of
Housing and Urban Development (HUD)
Office of Community Planning
and Development

Regulations for the CDBG Program
published in the
Federal Register
September 23, 1983

24 Code of Federal Regulations (CFR) - Part 570

The following HUD regulations formerly applied to entitlement communities only (cities over 50,000 population). According to HUD guidelines published on February 17, 1984, as a result of the enactment of the Housing and Urban-Rural Recovery Act in November, 1983, the following portions of the regulations will apply to the Fiscal Year 1984 State CDBG Program:

Subpart C -- Eligible Activities.....page 43558

Subpart K -- Other Program Requirements.....page 43568

Subpart O -- Program Management.....page 43574

The portions of Subparts C, K, and O which, according to HUD, are not applicable to the State CDBG Program have been stricken by bold lines. These regulations should be read in conjunction with the HUD interpretative guidelines of February 17, 1984, (Appendix C) regarding the amendments made by the Housing and Urban-Rural Recovery Act of 1983 in order to understand the full implications of the revised requirements for the 1984 State CDBG Program.

These regulations and the companion interpretative guidelines will be in effect until HUD adopts separate regulations for the State (Non-entitlement) CDBG Program in the fall of 1984.

Friday
September 23, 1983

Part IV

**Department of
Housing and Urban
Development**

**Office of the Assistant Secretary for
Community Planning and Development**

Community Development Block Grants

Reprint

This copy includes corrections of
typographical errors in the original
publication.

- Sec.
 570.603 Labor standards.
 570.604 Environmental standards.
 570.605 National Flood Insurance Program
 570.606 Relocation and acquisition.
 570.607 Employment and contracting
 opportunities.
 570.608 Lead-based paint.
 570.609 Use of debarred, suspended, or
 ineligible contractors or subrecipients.
 570.610 Uniform administrative
 requirements and cost principles.
 570.611 Conflict of interest.
 570.612 Displacement

Subpart M—Loan Guarantees

- 570.700 Eligible applicants.
 570.701 Eligible activities.
 570.702 Application requirements.
 570.703 Loan requirements.
 570.704 Federal guarantee.
 570.705 Applicability of rules and
 regulations.

Subpart O—Program Management

- 570.901 Review for compliance with primary
 objectives.

2. Subpart A of Part 570 is revised to
 read as follows:

Subpart A—General Provisions

§ 570.1. Purpose.

(a) This Part describes policies and
 procedures applicable to the following
 programs authorized under Title I of the
 Housing and Community Development
 Act of 1974, as amended:

- (1) Entitlement grants program
 (Subpart D);
- (2) Small Cities program: HUD-
 administered CDBG nonentitlement
 funds (Subpart F);
- (3) State's program: State-
 administered CDBG nonentitlement
 funds (Subpart I);
- (4) Secretary's Fund program (Subpart
 E);
- (5) Urban Development Action Grant
 program (Subpart G); and
- (6) Loan Guarantees (Subpart M).

(b) Subparts A, C, J, K and O apply to
 all of the above programs administered
 by HUD but do not apply to the State's
 Program (Subpart I) except to the extent
 expressly referred to (as, for example, in
 § 570.4). (Until Subparts J, K and O are
 amended to more completely reflect the
 Housing and Community Development
 Amendments of 1981, they should be
 read as applying to the Entitlement
 grants program in a manner which
 recognizes the deletion of the
 application requirements for grants
 made in Federal Fiscal Year 1982 and
 thereafter.)

§ 570.2 Primary objective.

The primary objective of Title I of the
 Housing and Community Development
 Act of 1974, as amended, is the
 development of viable urban
 communities, by providing decent
 housing and a suitable living
 environment and expanding economic
 opportunities, principally for persons of
 low and moderate income.

§ 570.3 Definitions.

(a) "Act" means Title I of the Housing
 and Community Development Act of
 1974, as amended (42 U.S.C. 5301 *et*
seq.).

(b) "Age of housing" means the
 number of existing year-round housing
 units constructed in 1939 or earlier,
 based on data compiled by the United
 States Bureau of the Census referable to
 the same point or period of time,
 available from the latest decennial
 census except that the 1980 census data
 will not be used until Fiscal Year 1984.

(c) "Applicant" means a State, unit of
 general local government, or Indian tribe
 which makes application pursuant to the
 provisions of Subparts E, F, G or M.

(d) "Chief Executive Officer" of a
 State or unit of local government means
 the elected official, or the legally
 designated official, who has the primary
 responsibility for the conduct of that
 entity's governmental affairs. Examples
 of the "chief executive officer" of a unit
 of local government are: the elected
 mayor of a municipality; the elected
 county executive of a county; the
 chairman of a county commission or
 board in a county that has no elected
 county executive; the official designated
 pursuant to law by the governing body
 of the unit of general local government;

(e) "City" means for purposes of
 Entitlement grant and Urban
 Development Action Grant eligibility: (1)
 Any unit of general local government
 which is classified as a municipality by
 the United States Bureau of the Census
 or (2) any other unit of general local
 government which is a town or township
 and which, in the determination of the
 Secretary: (i) Possesses powers and
 performs functions comparable to those
 associated with municipalities; (ii) is
 closely settled (except that the Secretary
 may reduce or waive this requirement
 on a case by case basis for the purposes
 of the Action Grant program); and (iii)
 contains within its boundaries no
 incorporated places as defined by the
 United States Bureau of the Census,
 which have not entered into cooperation
 agreements with such town or township
 for a period covering at least 3 years to
 undertake or to assist in the undertaking
 of essential community development

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The Table of Contents to Subparts
 A, B, C, D, K, M and O of 24 CFR Part
 570 is amended to read as follows:

Subpart A—General Provisions

- Sec.
 570.1 Purpose.
 570.2 Primary objective.
 570.3 Definitions.
 570.4 Allocation of funds.
 570.5 Waivers.

Subpart B—[Reserved]

Subpart C—Eligible Activities

- 570.200 General policies.
 570.201 Basic eligible activities.
 570.202 Eligible rehabilitation and
 preservation activities.
 570.203 Special economic development
 activities.
 570.204 Special activities by subrecipients.
 570.205 Eligible planning and policy—
 planning—management—capacity
 building activities.
 570.206 Eligible administrative costs.
 570.207 Ineligible activities.

Subpart D—Entitlement Grants

- 570.300 General.
 570.301 Presubmission requirements.
 570.302 Submission requirements.
 570.303 Certifications.
 570.304 Making of grants.
 570.305 Displacement.
 570.306 Housing assistance plan
 570.307 Urban counties.
 570.308 Joint requests.

Subpart K—Other Program Requirements.

- 570.600 General.
 570.601 Pub. L. 88-352 and Pub. L. 90-284;
 and Executive Order 11063.
 570.602 Section 109 of the Act.

and housing assistance activities. The determination of eligibility of a town or township to qualify as a city will be based on information available from the United States Bureau of the Census and information provided by the town or township and its included units of general local government. For purposes of urban development action grant eligibility only, "city" includes Guam, the Virgin Islands, and Indian tribes which are eligible recipients under the State and Local Government Fiscal Assistance Act of 1972 and located on reservations or in Alaskan Native Villages.

(f) "Discretionary grant" means a grant made from the Secretary's Fund in accordance with Subpart E.

(g) "Entitlement amount" means the amount of funds which a metropolitan city or urban county is entitled to receive under the Entitlement grant program, as determined by formula set forth in section 106 of the Act.

(h) "Extent of growth lag" means the number of persons who would have been residents in a metropolitan city or urban county, in excess of the current population of such metropolitan city or urban county, if such metropolitan city or urban county had a population growth rate, between 1960 and the date of the most recent population count available from the United States Bureau of the Census referable to the same point or period in time, equal to the population growth rate for such period of all metropolitan cities.

(i) "Extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room as based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time, except that 1980 census data will not be used until Fiscal Year 1984.

(j) "Extent of poverty" means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census available from the latest census referable to the same point or period in time and the latest reports from the Office of Management and Budget. For purposes of this Part, the Secretary has determined that it is neither feasible nor appropriate to make adjustments at this time in the computations of "extent of poverty" for regional or area variations in income and cost of living.

(k) "HUD" means the Department of Housing and Urban Development.

(l) "Identifiable segment of the total group of lower income persons in the community" means female-headed households, and members of a minority

group which includes Black, American Indian/Alaskan Native, Hispanic, Asian/Pacific Islander, and other groups normally identified by race, color, or national origin.

(m) "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Pub. L. 92-512).

(n) "Low and moderate income household" or "lower income household" means a household whose income does not exceed 80 percent of the median family income for the area, as determined by HUD with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

(o) "Low and moderate income person" or "lower income person" means a member of a family having a family income within the limits determined in accordance with § 570.3(n) or any unrelated individual whose income does not exceed the one-person limit determined in accordance with § 570.3(n).

(p) "Metropolitan area" means a metropolitan statistical area, as established by the Office of Management and Budget. An area which was classified as a metropolitan area under criteria in effect as of December 31, 1979 shall continue to be so classified through Fiscal Year 1983 if it continues to meet such criteria.

(q) "Metropolitan city" means: (1) A city, within a metropolitan area, which is a central city of such area, as defined and used by the Office of Management and Budget (any such city which was classified as a central city as of December 31, 1979, shall continue to be so classified through Fiscal Year 1983), or (2) any other city, within a metropolitan area, which has a population of fifty thousand. Any city which has been classified as a metropolitan city because it has a population of at least fifty thousand will continue to be so classified through Fiscal Year 1983.

(r) "Nonentitlement amount" means the amount of funds which is allocated for use in a State's nonentitlement area as determined by formula set forth in section 106 of the Act.

(s) "Nonentitlement area" means an area which is not a metropolitan city or not included as part of an urban county.

(t) "Population" means the total resident population based on data compiled and published by the United States Bureau of the Census available from the latest census, or which has been upgraded by the Bureau to reflect the changes resulting from the Boundary and Annexation Survey, new incorporations, and consolidations of governments pursuant to § 570.4, and which reflects, where applicable, changes resulting from the Bureau's latest population determination through its estimating technique using natural changes (birth and death) and net migration, and is referable to the same point or period in time.

(u) "Secretary" means the Secretary of Housing and Urban Development.

(v) "State" means any State of the United States, or any instrumentality thereof approved by the Governor; and the Commonwealth of Puerto Rico.

(w) "Unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions recognized by the Secretary; the District of Columbia; and the Trust Territory of the Pacific Islands. Such term also includes a State or a local public body or agency (as defined in section 711 of the Housing and Urban Development Act of 1970), a community association, or other entity, which is approved by the Secretary for the purpose of providing public facilities or services to a new community as part of a program meeting the eligibility standards of section 712 of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968.

(x) "Urban county" means any county within a metropolitan area which has qualified for a three-year period, pursuant to § 570.307, and which, at the time of qualification, is authorized under State law to undertake essential community development and housing assistance activities in its unincorporated areas, if any, which are not units of general local government, and: (1) Has a combined population of two hundred thousand or more (excluding the population of metropolitan cities and Indian tribes therein) in such unincorporated areas and in its included units of general local government; (i) In which it has authority

to undertake essential community development and housing assistance activities and which do not elect to have their population excluded or (ii) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing activities, or (2) has population in excess of one hundred thousand, a population density of five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census. Any urban county which qualified as an urban county in Fiscal Year 1981, the population of which includes all of the population of the county (other than the population of metropolitan cities therein), and the population of which for Fiscal Year 1982 falls below the amount required by clause (1) of the preceding sentence by reason of the 1980 decennial census shall be considered as meeting the population requirements of such clause for Fiscal Year 1983 and shall not be subject to the provisions of § 570.307 in that fiscal year.

(y) "Urban Development Action Grant" (UDAG) means a grant made by the Secretary pursuant to section 119 of the Act and Subpart G of this Part.

§ 570.4 Allocation of funds.

(a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in nonentitlement areas, the reallocation of funds, and the allocation of appropriated funds for discretionary grants under the Secretary's Fund shall be governed by the policies and procedures described in sections 106 and 107 of the Act, as supplemented in this section.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 106 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under sections 106 of the Act for any Federal Fiscal Year the Department will recognize corporate status and geographical boundaries and the status of metropolitan areas and central cities effective as of July 1 preceding such Federal Fiscal Year, subject to the following limitations:

(1) With respect to corporate status, as certified by the applicable State and available for processing by the Census Bureau as of such date;

(2) With respect to boundary changes or annexations, as accepted for use by the Office of Revenue Sharing (ORS) for the same fiscal year and available for

processing by the Census Bureau as of such date, except that any such boundary changes or annexations which result in the population of a unit of general local government reaching or exceeding 50,000 shall be recognized for this purpose whether or not such changes are accepted for use by the ORS; and,

(3) With respect to the status of Metropolitan Statistical Areas and central cities, as officially designated by the Office of Management and Budget as of such date.

(d) In determining whether a county qualifies as an urban county, and in computing Entitlement amounts for urban counties, the demographic values of population, poverty, housing overcrowding, and age of housing of any Indian tribes located within the county shall be excluded. In allocating amounts to States for use in nonentitlement areas, the demographic values of population, poverty, housing overcrowding, and age of housing of all Indian tribes located in nonentitled areas shall be excluded. It is recognized that all such data on Indian tribes are not generally available from the United States Bureau of the Census and that missing portions of data will have to be estimated. In accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the data's point or period of time and shall use the best judgment possible in adjusting such data to reflect the same point or period of time as the overall data from which the Indian tribes are being deducted, so that such deduction shall not create an imbalance with those overall data.

(e) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts, shall be considered as funds available for reallocation.

§ 570.5 Waivers

The Secretary may waive any requirement of this Part not required by law whenever it is determined that undue hardship will result from applying the requirement and where application of the requirement would adversely affect the purposes of the Act.

3. Subpart B of Part 570 is removed and is being reserved for future use.

Subpart B—(Reserved)

4. Subpart C of Part 570 is revised to read as follows:

Subpart C—Eligible Activities

§ 570.200 General policies

(a) *Determination of eligibility.* An activity may be financed in whole or in part with Community Development Block Grant (CDBG) funds only if all of the following requirements are met:

(1) *Compliance with section 105 of the Act.* Each activity must meet the eligibility requirements of section 105 of the Act as further defined in this Subpart.

(2) *Compliance with primary objectives.* The Act establishes as its primary objective the development of viable urban communities, including decent housing and a suitable living environment, and expanding economic opportunity, principally for persons of low and moderate income. For grant recipients under the Entitlement and HUD-administered Small Cities programs, this overall objective is achieved through a program where the projected use of funds has been developed so as to give maximum feasible priority to activities which will carry out one of the broad national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. The choice of eligible activities on which block grant funds are to be expended represents the recipient's determination as to which approach or approaches will best serve their primary objectives, subject to the Secretary's authority to determine that a grantee has failed to carry out its activities in accordance with the primary objective of the Act. Consistent with the foregoing, each recipient under the Entitlement and HUD-administered Small Cities programs must ensure and maintain evidence that each of its CDBG-funded activities meets one of the broad national objectives as contained in its certification, and each Entitlement grantee must be prepared to demonstrate that its use of funds, taken as a whole, is being carried out to further the primary objective of the Act.

(3) *Compliance with environmental review procedures.* The environmental review and clearance procedures set forth at 24 CFR Part 58 must be completed for each activity (or project

as defined in 24 CFR Part 58), as applicable.

~~(4) Cost principles. Costs incurred, whether charged on a direct or an indirect basis, must be in conformance with the requirements of OMB Circulars A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments" or A-122, "Cost Principles for Non-profit Organizations," as applicable. All items of cost listed in Attachment B of these Circulars are allowable without prior approval of HUD to the extent they comply with the general policies and principles stated in Attachment A of such Circulars and are otherwise eligible under this Subpart. However, pre-agreement costs are limited to those costs described at § 570.200(h).~~

~~(5) Other requirements. Each activity must comply with all requirements of this Part as they may apply under Subparts D, E, F, and G.~~

(b) *Special policies governing facilities.* The following special policies apply to:

(1) *Facilities containing both eligible and ineligible uses.* A public facility otherwise eligible for assistance under the CDBG program may be provided with program funds even if it is part of a multiple use building containing ineligible uses, if:

(i) The facility which is otherwise eligible and proposed for assistance will occupy a designated and discrete area within the larger facility; and

(ii) The recipient can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility.

Allowable costs are limited to those attributable to the eligible portion of the building or facility.

(2) *Fees for use of facilities.* Reasonable fees may be charged for the use of the facilities assisted with CDBG funds, but charges, such as excessive membership fees, which will have the effect of precluding low and moderate income persons from using the facilities are not permitted.

(c) *Special assessments under the CDBG program.* The following policies relate to the use of special assessments under the CDBG program:

(1) *Definition of special assessment.* The term "special assessment" means a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public facility improvement, such as streets, curbs, and gutters. The amount of the fee represents the pro rata share of the capital costs of the public improvement levied against the benefiting properties.

This term does not relate to taxes, or the establishment of the value of real estate for the purpose of levying real estate, property, or ad valorem taxes.

(2) *Special assessments to recover capital costs.* There can be no special assessment to recover that portion of a capital expenditure funded with CDBG funds. Recipients may, however, levy assessments to recover the portion of a capital expenditure funded from other sources. Funds collected through such special assessments are not program income.

(3) *Other uses of CDBG funds for special assessments.* Program funds may be used to pay all or part of special assessments levied against properties owned and occupied by low and moderate income persons when such assessments are used to recover that portion of the capital cost of public improvements financed from sources other than community development block grants, provided that:

(i) The assessment represents that property's share of the capital cost of the eligible facility or improvement; and
(ii) The installation of the public facilities and improvements was carried out in compliance with requirements applicable to activities assisted under this Part.

(d) *Consultant activities.* Consulting services are eligible for assistance under this Part for professional assistance in program planning, development of community development objectives, and other general professional guidance relating to program execution. The use of consultants is governed by the following:

(1) *Employer-employee type of relationship.* No person providing consultant services in an employer-employee type of relationship shall receive more than a reasonable rate of compensation for personal services paid with CDBG funds. In no event, however, shall such compensation exceed the maximum daily rate of compensation for a GS-18 as established by Federal law. Such services shall be evidenced by written agreements between the parties which detail the responsibilities, standards, and compensation.

(2) *Independent contractor relationship.* Consultant services provided under an independent contractor relationship are governed by the Procurement Standards of Attachment C of OMB Circular No. A-102 and are not subject to the GS-18 limitation.

(e) *Recipient determinations required as a condition of eligibility.* In several instances under this Subpart, the eligibility of an activity depends on a special local determination. Recipients

shall maintain documentation of all such determinations. ~~A written determination is required for any activity carried out under the authority of §§ 570.201(e)(1), 570.201(f), 570.202(b)(3), 570.203, 570.204, and 570.208(f). A written determination is also required for certain relocation costs under § 570.201(i).~~

(f) *Means of carrying out eligible activities.* Activities eligible under this Subpart may be undertaken either:

(1) by the recipient through:
(i) Its employees; or
(ii) ~~Procurement contracts governed by the requirements of Attachment C of OMB Circular A-102; or~~

(2) Through agreements with subrecipients; except that activities authorized in § 570.204(a)(2) may only be undertaken by subrecipients specified in that section.

(g) *Limitation on planning and administrative costs.* (Effective date: This paragraph is effective beginning with the first grant made under Subparts E or F, or the first program year commencing on or after the effective date of this rule.) No more than 20 percent of the sum of any grant plus program income shall be expended for planning and administrative costs, as defined in §§ 570.205 and 570.206 respectively. Recipients of Entitlement grants under Subpart D will be considered to be in conformance with this limitation if expenditures for planning and administration during the most recently completed program year did not exceed 20 percent of the sum of the Entitlement grant made for that program year and the program income received during that program year.

~~(h) Reimbursement for pre-agreement costs. Prior to the effective date of the grant agreement, a recipient may obligate and spend local funds for the purpose of environmental assessments required by 24 CFR Part 58, for the planning and capacity building purposes authorized by § 570.205(b), for engineering and design costs associated with an activity eligible under § 570.201 through § 570.204, for the provision of information and other resources to residents pursuant to § 570.208(h), and for relocation and/or acquisition activities carried out pursuant to § 570.606. After the effective date of the grant agreement, the recipient may be reimbursed with funds from its grant to cover those costs, provided such locally funded activities were undertaken in compliance with the requirements of this Part and 24 CFR Part 58.~~

~~(i) Urban Development Action Grant. Grant assistance may be provided with Urban Development Action Grant funds.~~

subject to the provision of Subpart C, for.

(1) Activities eligible for assistance under this Subpart and

(2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

§ 570.201 Basic eligible activities.

Grant assistance may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by a public agency or private nonprofit entity, by purchase, lease, donation, or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) for any public purpose, subject to the limitations of § 570.207(a).

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with CDBG funds or its retention for public purposes, including reasonable costs of temporarily managing such property or property acquired under urban renewal, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 570.506.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 570.207(a), carried out by the recipient or other public or private nonprofit entities. In undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements receiving CDBG assistance, such as decorative pavements, railings, sculptures, pools of water and fountains, and other works of art. Nonprofit entities and subrecipients as specified in § 570.204 may acquire title to public facilities such as senior centers, centers for the handicapped, or neighborhood facilities. When such facilities are owned by nonprofit entities or subrecipients, they shall be operated so as to be open for use by the general public during all normal hours of operation. Public facilities and improvements eligible for assistance under this paragraph are subject to the policies in § 570.200(b) and the restrictions specified below.

(1) Parks, playgrounds, and recreational facilities established as a result of reclamation and other

construction activities carried out in connection with a river and adjacent land, and flood and drainage facilities are eligible only where assistance has been determined to be unavailable under other Federal laws or programs. No CDBG funds may be obligated or expended for activities specified in this subparagraph until the recipient has complied with the following requirements:

(i) An application or written request has been made to the Federal agency that customarily funds the proposed activity within the recipient's jurisdiction; and

(ii) The application or request has been rejected, or the recipient has been advised that funds will not be made available for at least 90 days after the date of the application or request, or there has been no response from the Federal agency after 45 days from the date of the application or request.

(2) The following facilities are eligible only when located in or serving areas where other community development activities have been or are being carried out:

(i) Parking facilities;

(ii) Fire protection facilities and equipment; and

(iii) Solid waste disposal, recycling or conversion facilities.

(d) *Clearance activities.* Clearance, demolition, and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD-assisted housing units may be undertaken only with the prior approval of HUD.

(e) *Public services.* (Effective date: This paragraph is effective as of the beginning of the recipient's program funded from Federal Fiscal Year 1982 and subsequent appropriations.) Provision of public services (including labor, supplies, and materials) which are directed toward improving the community's public services and facilities, including but not limited to those concerned with employment, crime prevention, child care, health, drug abuse, education, energy conservation, welfare, or recreational needs. In order to be eligible for CDBG assistance, public services must meet each of the following criteria:

(1) A public service must be either: (i) A new service, or (ii) a quantifiable increase in the level of a service above that which has been provided by or in behalf of the unit of general local government (through funds raised by such unit, or received by such unit from the State in which it is located) in the twelve calendar months prior to the submission of the statement. (An exception to this requirement may be

made if HUD determines that the decrease in the level of a service was the result of events not within the control of the unit of general local government.)

(2) The amount of funds used for public services, including services provided by subrecipients under § 570.204, shall not exceed 10 percent of each grant except as provided in subparagraph (3) below. For Entitlement grants under Subpart D, compliance is based on the amount of funds obligated for public service activities in each program year compared to the Entitlement grant made for that program year.

(3) A recipient which allocated more than 10 percent of its grant for public services in its program funded from Federal Fiscal Year 1981 appropriations, may obligate more than 10 percent of its grant for public services in each of its program years funded from Federal Fiscal Years 1982, 1983, or 1984 appropriations so long as the amount obligated in any such program year does not exceed the amount allocated in Fiscal Year 1981. For the purposes of this provision, the Fiscal Year 1981 allocation is the amount specified for public service activities in the Grant Summary applicable to the program funded from Fiscal Year 1981 appropriations, as of October 1, 1981.

(f) *Interim assistance.*

(1) The following activities may be undertaken on an interim basis in areas exhibiting objectively determinable signs of physical deterioration where the recipient has determined that immediate action is necessary to arrest the deterioration and that permanent improvements will be carried out as soon as practicable:

(i) The repairing of streets, sidewalks, parks, playgrounds, publicly owned utilities, and public building; and

(ii) The execution of special garbage trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) In order to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the recipient determines that such an emergency condition exists and requires immediate resolution, CDBG funds may be used for:

(i) The activities specified in subparagraph (1) above, except for the repair of parks and playgrounds;

(ii) For the clearance of streets, including snow removal and similar activities; and

(iii) The improvement of private properties.

All activities authorized under this subparagraph are limited to the extent necessary to alleviate emergency conditions.

(g) *Payment of the non-Federal share* required in connection with a Federal grant-in-aid program undertaken as part of CDBG activities, provided, that such payment shall be limited to activities otherwise eligible under this Subpart.

(h) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended. Further information regarding the eligibility of such costs is set forth in § 570.801.

(i) *Relocation.* Relocation payments and assistance for permanently or temporarily displaced individuals, families, businesses, nonprofit organizations, and farm operations where: (1) Required under the provisions of § 570.606(a); and (2) relocation payments and assistance are determined by the recipient to be appropriate as provided in § 570.606(b).

(j) *Loss of rental income.* Payments of housing owners for losses of rental income incurred in holding, for temporary periods, housing units to be utilized for the relocation of individuals, and families displaced by program activities assisted under this Part.

(k) *Removal of architectural barriers.* Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements. Further information regarding the removal of architectural barriers is available in the current publication of the American National Standards Institute, Inc., ANSI A117.1.

(l) *Privately owned utilities.* CDBG funds may be used to acquire, construct, reconstruct, rehabilitate, or install the distribution lines and facilities of privately owned utilities, including the placing underground of new or existing distribution facilities and lines.

§ 570.202 Eligible rehabilitation and preservation activities.

(a) *Types of buildings and improvements eligible for rehabilitation assistance.* CDBG funds may be used to finance the rehabilitation of:

- (1) Privately owned buildings and improvements;
- (2) Low income public housing and other publicly owned residential buildings and improvements; and
- (3) Publicly owned nonresidential buildings and improvements otherwise eligible for assistance.

Specific information on historic properties is included in paragraph (d) of this section.

(b) *Types of assistance.* CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements described in paragraph (a) of this section:

(1) Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties for use or resale for residential purposes;

(2) Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, and renovation through alterations, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(3) Loans for refinancing existing indebtedness secured by a property rehabilitated with CDBG funds if such financing is necessary or appropriate to achieve the recipient's community development objectives;

(4) Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;

(5) Improvements to increase the efficient use of water through such means as water saving faucets and shower heads and repair of water leaks;

(6) Financing of costs associated with the connection of residential structures to water distribution lines or local sewer collection lines;

(7) For rehabilitation carried out with CDBG funds, costs of:

- (i) Initial homeowner warranty premiums;
- (ii) Hazard insurance premiums, except where assistance is provided in the form of a grant; and
- (iii) Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to § 570.805;

(8) Costs of tools to be lent to owners, tenants, and others who will use such tools to carry out rehabilitation; and

(9) Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing,

inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, and under section 810 of the Act.

(c) *Code enforcement.* Code enforcement in deteriorating or deteriorated areas where such enforcement together with public improvements, rehabilitation, and services to be provided, may be expected to arrest the decline of the area.

(d) *Historic preservation.* CDBG funds may be used for the rehabilitation, preservation, and restoration of historic properties, whether publicly or privately owned. Historic properties are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local Inventory of Historic Places, or designated as a State or local landmark or historic district by appropriate law or ordinance. Historic preservation does not include, however, the expansion of properties for ineligible uses, such as buildings for the general conduct of government.

(e) *Renovation of closed school buildings.* CDBG funds may be used to renovate closed school buildings for use as an eligible public facility, for a commercial or industrial facility, or for housing.

§ 570.203 Special economic development activities.

A recipient may use CDBG funds for special economic development activities authorized under this section if it determines that such activities are necessary or appropriate to carry out an economic development project. Special economic development activities are permitted in addition to other activities authorized in this Subpart which may be carried out as part of an economic development project. Special activities authorized under this section do not include assistance for the construction of new housing. Special economic development activities include:

- (a) The acquisition, construction, reconstruction, or installation of commercial or industrial buildings, structures, and other real property equipment and improvements, including railroad spurs or similar extensions. Such activities may be carried out by the recipient, subrecipients, or private for profit businesses. (Rehabilitation of commercial or industrial buildings and improvements is eligible under § 570.202.)

(b) The provision of assistance to private for profit businesses, including, but not limited to, grants, loans, loan guarantees, interest supplements, technical assistance, and other forms of support, for any other activity necessary or appropriate to carry out an economic development project, excluding those described as ineligible in § 570.207(a).

§ 570.204 Special activities by subrecipients.

(a) *Eligible activities.* The recipient may grant CDBG funds to any of the three types of subrecipients specified in paragraph (c) below, to carry out a neighborhood revitalization, community economic development, or energy conservation project. Such a project may include:

- (1) Activities listed as eligible under this Subpart; and
- (2) Activities not otherwise listed as eligible under this Subpart, except those described as ineligible in § 570.207(e), when the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.

(b) *Recipient responsibilities.* Recipients under Subparts D, F, or G are responsible for ensuring that CDBG funds are utilized by subrecipients in a manner consistent with the requirements of this Part and other applicable Federal, State, or local law. Grantees are also responsible for carrying out the environmental review and clearance responsibilities.

(c) *Eligible subrecipients.* The following are subrecipients authorized to receive grants under this section.

(1) *Neighborhood-based nonprofit organizations.* A neighborhood-based nonprofit organization is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within a neighborhood. An organization is considered to be neighborhood-based if the majority of either its membership, clientele, or governing body are residents of the neighborhood where activities assisted with CDBG funds are to be carried out. A neighborhood is defined as:

- (i) A geographic location within the jurisdiction of a unit of general local government (but not the entire jurisdiction) designated in comprehensive plans, ordinances, or other local documents as a neighborhood;
- (ii) The entire jurisdiction of a unit of general local government which is under 25,000 population; or
- (iii) A neighborhood, village, or similar geographical designation, in a

new community as defined in § 570.403(a).

(2) *Section 301(d) Small Business Investment Companies.* A section 301(d) Small Business Investment Company is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)), including those which are profit making.

(3) *Local Development Corporations.* A local development corporation is:

(i) An entity organized pursuant to Title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 2981) or the Community Economic Development Act of 1981 (42 U.S.C. 9801 et seq.);

(ii) An entity eligible for assistance under section 502 or 503 of the Small Business Investment Act of 1958 (15 U.S.C. 689);

(iii) Other entities incorporated under State or local law whose membership is representative of the area of operation of the entity (including nonresident owners of businesses in the area) and which is similar in purpose, function, and scope to those specified in (i) or (ii) above; or

(iv) A State development entity eligible for assistance under Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695).

§ 570.205 Eligible planning and policy—planning—management—capacity building activities

(a) Planning activities which consist of all costs of data gathering, studies, analysis, and preparation of plans and implementing actions, including, but not limited to:

- (1) Comprehensive plans;
- (2) Community development plans;
- (3) Functional plans, in areas such as:
 - (i) Housing, including the development of a Housing Assistance Plan;
 - (ii) Land use;
 - (iii) Economic development;
 - (iv) Open space and recreation;
 - (v) Energy use and conservation;
 - (vi) Floodplain management in accordance with the requirements of Executive Orders 11988 and 11990;
 - (vii) Transportation;
 - (viii) Utilities; and
 - (ix) Historic preservation.
- (4) Other plans and studies such as:
 - (i) Small area and neighborhood plans;
 - (ii) Capital improvements programs;
 - (iii) Individual project plans (but excluding engineering and design cost related to a specific activity which are eligible as part of the cost of such activity under §§ 570.201–570.204);
 - (iv) The reasonable costs of general environmental and historic preservation

studies. However, costs necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this Part are eligible as part of the cost of such activities under §§ 570.201–570.204 and are therefore not planning costs for the purposes of § 570.200(g).

(v) Strategies and action programs to implement plans, including development of codes, ordinances and regulations necessary to implement such plans; and

(vi) Support of clearinghouse functions.

(b) *Policy—planning—management—capacity building activities* which will enable the recipient to:

- (1) Determine its needs;
- (2) Set long-term goals and short-term objectives, including those related to environmental design;
- (3) Devise programs and activities to meet these goals and objectives;
- (4) Evaluate the progress of such programs and activities in accomplishing these goals and objectives; and
- (5) Carry out management, coordination and monitoring of activities necessary for effective planning implementation.

§ 570.206 Eligible administrative costs.

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities financed in whole or in part with funds provided under this Part and housing activities covered in the recipient's Housing Assistance Plan (HAP).

(a) *General management, oversight, and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation, and similar costs associated with management, but excluding activity delivery costs which are eligible as part of the cost of carrying out the activity under § 570.201 through § 570.204. Such costs include, but are not limited to, necessary expenditures for the following:

- (1) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in general management, coordination, monitoring, and evaluation;
- (2) Travel costs incurred for official business in carrying out the program;
- (3) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services; and
- (4) Other costs for goods and services required for administration of the

program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies, and rental or purchase of office equipment.

(b) *The provision of information and other resources to residents* and citizen organizations participating in the planning, implementation, or assessment of activities being carried out with CDBG funds.

(c) *Provision of fair housing counseling services* and other activities designed to further the fair housing objectives of Title VIII of the Civil Rights Act of 1968 and the housing objective of promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of lower income persons.

(d) *Provision of assistance to facilitate performance and payment bonding* necessary for contractors carrying out activities assisted with CDBG funds including payment of bond premiums on behalf of contractors.

~~(e) *Indirect costs.* Costs may be charged to the CDBG program under a cost allocation plan prepared in accordance with OMB Circulars A-87, or A-122 as applicable.~~

~~(f) *Submissions or applications for Federal programs.* Preparation of documents required for submission to HUD or States to receive funds under the CDBG and UDAC programs. In addition, CDBG funds may be used to prepare applications for other Federal programs where the recipient determines that such activities are necessary or appropriate to achieve its community development objectives.~~

(g) *Administrative expenses to facilitate housing.* The construction of new housing or direct financing of new or existing housing is not an eligible use of CDBG funds, except as described in § 570.207(b)(3). However, CDBG funds may be used for necessary administrative expenses in planning or obtaining financing for housing units as follows: for Entitlement grantees, assistance authorized by this paragraph is limited to units which are identified in the grantee's HUD approved Housing Assistance Plan; for Small cities grantees, assistance authorized by this paragraph is limited to facilitating the purchase or occupancy of existing units which are to be occupied by lower income households, or the construction of rental or owner units where at least 20 percent of the units in each project will be occupied at affordable rents/ costs, by lower income persons. Examples of eligible actions are as follows:

(1) The cost of conducting preliminary surveys and analysis of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and "sketch drawings," but excluding architectural, engineering, and other details ordinarily required for construction purposes, such as structural, electrical, plumbing, and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 Housing Assistance Payments Program pursuant to 24 CFR Part 880-883;

(4) Fees associated with processing of applications for mortgage or insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA);

(5) The cost of issuance and administration of mortgage revenue bonds used to finance the acquisition, rehabilitation, or construction of housing, but excluding costs associated with the payment or guarantee of the principal or interest on such bonds; and

(6) Special outreach activities which result in greater landlord participation in Section 8 existing, or similar program for lower income persons.

§ 570.207 Ineligible activities.

The general rule is that any activity that is not authorized under the provisions of §§ 570.201-206 of this Subpart is ineligible to be carried out with CDBG funds. This section identifies two specific activities that are ineligible and provides guidance thought to be necessary in determining the eligibility of several other activities frequently associated with housing and community development.

(a) The following activities may not be carried out using CDBG funds:

(1) Buildings, or portions thereof, used predominantly for the general conduct of government cannot be assisted with CDBG funds. Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body of the recipient meets regularly, courthouses, jails, police stations, and other State or local government office buildings. This does not exclude, however, the removal of architectural barriers under § 570.201(k) and historic preservation under § 570.202(d) involving any such building. Also, where acquisition of real property

includes an existing improvement which is to be utilized in the provision of a building or facility for the general conduct of government, the portion of the acquisition cost attributable to the land is eligible.

(2) *General government expenses.* Except as otherwise specifically authorized in this Subpart or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this Part.

(3) *Political activities.* CDBG funds shall not be used to finance the use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally financed in whole or in part with CDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis, and are assessed equal rent or use charges, if any.

(b) The following activities may not be carried out with CDBG funds unless authorized under provisions of § 570.203 or as otherwise specifically noted herein, or when carried out by a subrecipient under the provisions of § 570.204.

(1) *Purchase of equipment.* The purchase of equipment with CDBG funds is generally ineligible.

(i) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation, or use allowances pursuant to OMB Circulars A-87 or A-122 as applicable for an otherwise eligible activity is an eligible use of CDBG funds. However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under § 570.201(c)(2).

(ii) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, furnishings, or other personally not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase, or to pay depreciation or use allowances (in accordance with OMB Circulars A-87 or A-122, as applicable), for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as fire fighting equipment, or as a public service pursuant to § 570.201(e).

(2) *Operating and maintenance expenses.* The general rule is that any expense associated with repairing, operating or maintaining public facilities and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities, interim assistance, and office space for program staff employed in carrying out the CDBG program. For example, where a public service is being assisted with CDBG funds, the cost of operating and maintaining that portion of the facility in which the service is located is eligible as part of the public service. Examples of ineligible operating and maintenance expenses are:

(i) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which CDBG funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs.

(ii) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities; and

(3) *New housing construction.* Assistance may not be used for the construction of new permanent residential structures or for any program to subsidize or finance such new construction, except:

(i) As provided under the last resort housing provisions set forth in 24 CFR Part 42; or,

(ii) When carried out by a subrecipient pursuant to § 570.204(a)(2).

For the purpose of this paragraph, activities in support of the development of low or moderate income housing including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing preconstruction costs set forth in § 570.206(g), are not considered as activities to subsidize or finance new residential construction.

(4) *Income payments.* The general rule is that assistance shall not be used for income payments for housing or any other purpose. Examples of ineligible income payments include the following: payments for income maintenance, housing allowances, down payments, and mortgage subsidies.

5. Subpart D of Part 570 is revised to read as follows:

Subpart D—Entitlement Grants

§ 570.300 General.

This Subpart describes the policies and procedures governing the making of Community Development Block grants to Entitlement communities. The policies and procedures set forth in Subparts A, C, J, K, and O of this Part also apply to Entitlement grantees.

§ 570.301 Presubmission requirements.

(a) Prior to the submission to HUD for its annual grant, the grantee must:

(i) Develop a proposed statement of community development objectives and projected use of funds, including the following items:

(i) The community development objectives the grantee proposes to pursue; and

(ii) The community development activities the grantee proposes to carry out with anticipated CDBG funds, including all funds identified in paragraph (a)(2)(i) below, to address its identified community development objectives. Each such activity must:

(A) Address at least one of the three broad national objectives;

(B) Be eligible pursuant to the provisions of Subpart C; and

(C) Be described in sufficient detail, including location, to allow citizens to determine the degree to which they may be affected.

(2) Meet the following citizen participation requirements:

(i) Furnish citizens with information concerning the amount of CDBG funds expected to be available (including the annual grant, program income, surplus from urban renewal settlement, and proceeds from HUD guaranteed loans) for community development and housing activities, and the range of activities that may be undertaken with those funds;

(ii) Hold at least one public hearing to obtain the views of citizens on the grantee's housing and community development needs; and

(iii) Publish community-wide its proposed statement of community development objectives and projected use of funds so as to afford affected citizens an opportunity to examine the statement's contents, and to provide comments on the proposed statement and on the grantee's community development performance.

(3) Prepare its final statement of community development objectives and projected use of funds. Once the grantee has completed the citizen participation requirements in paragraph (a)(2) above, the grantee must consider any such comments and views received and if the grantee deems appropriate modify the

proposed statement. The grantee shall make the final statement available to the public. The final statement may include activities which do not either benefit low and moderate income persons or prevent or eliminate slums and blight only if the grantee identifies such activities in the final statement and certifies that such activities are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.

(4) Submit and receive approval of its Housing Assistance Plan in accordance with § 570.306.

(h) The grantee may elect not to carry out an activity contained in its final statement or to carry out activities other than those described in such statement, provided it has afforded affected citizens an opportunity to comment on the proposed changes. The grantee shall make available to the public and shall submit to HUD a description of any changes adopted. The procedures in this paragraph shall also be followed when a grantee deletes an activity from or adds an activity to those activities described in applications approved prior to Fiscal Year 1982.

§ 570.302 Submission requirements.

(a) *Content.* In order to receive its annual CDBG Entitlement grant, a grantee must submit the following:

(1) Standard Form 424;

(2) A copy of the grantee's final statement of community development objectives and projected use of funds, covering the same items as listed in § 570.301(a)(1); and

(3) Certifications satisfactory to the Secretary covering all of the items listed in § 570.303.

(b) *Timing of submissions.*

(1) In order to facilitate continuity in its program, the grantee should submit its final statement to HUD at least 30 days prior to the start of its community development program year, but in no event will HUD accept a submission for a grant earlier than December 1 or later than the first working day in September of the Federal Fiscal Year for which the grant funds are appropriated.

(2) A program year shall run for a twelve month period. A grantee may, however, either shorten or lengthen its program year, provided HUD receives written notice of a lengthened program year at least two months prior to the date the program year would have ended if it had not been lengthened, or HUD receives notice of a shortened

program year at least two months prior to the end of the shortened program year.

(The OMB has approved Standard Form 424 under No. 29-RO218)

§ 570.303 Certifications.

The grantee shall submit certifications that:

(a) It possesses legal authority to make a grant submission and to execute a community development and housing program;

(b) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the grantee to submit the final statement and all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the grantee to act in connection with the submission of the final statement and to provide such additional information as may be required.

(c) Prior to submission of its final statement to HUD, the grantee has:

(1) Met the citizen participation requirements of § 570.301(a)(2);

(2) Prepared its final statement of community development objectives and projected use of funds in accordance with § 570.301(a)(3) and made the final statement available to the public;

(d) The grant will be conducted and administered in compliance with:

(1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d *et seq.*); and

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601 *et seq.*).

(e) It has developed its final statement of projected use of funds so as to give maximum feasible priority to activities which benefit low and moderate income families or aid in the prevention or elimination of slums or blight. (The final statement of projected use of funds may also include activities which the grantee certifies are designed to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community, and other financial resources are not available.)

(f) It is following a current housing assistance plan which has been approved by HUD pursuant to § 570.306.

(g) It will comply with the other provisions of the Act and with other applicable laws.

§ 570.304 Making of grants.

(a) *Acceptance of final statement and certifications.* The final statement and

certifications will be accepted by the responsible HUD Field Office unless it is determined that one or more of the following requirements have not been met.

(1) *Completeness.* The submission shall include all of the components required in § 570.302(a).

(2) *Timeliness.* The submission must be received within the time period established in § 570.302(b)(1).

(3) *Certifications.* In the absence of independent evidence (which may, but need not, be derived from performance reviews and audits performed by the Secretary pursuant to section 104(d) of the Act) which tends to challenge in a substantial manner the certifications made by the grantee, such certifications will be deemed satisfactory to the Secretary if made in compliance with the requirements of § 570.303. If such independent evidence is available to the Secretary, however, the Secretary may require such further information or assurances to be submitted by the grantee as the Secretary may consider warranted or necessary in order to find the grantee's certifications satisfactory.

(b) *Grant agreement.* The grant will be made by means of a grant agreement executed by both HUD and the grantee.

(c) *Grant amount.* The Secretary will make a grant in the full Entitlement amount, generally within the last 30 days of the grantee's current program year unless:

(a) The final statement or certifications are not received by the first working day in September or are not acceptable under paragraphs (a)(1) and (3) of this section in which case the grantee will forfeit the entire entitlement amount; or

(2) The grantee's performance does not meet the standards prescribed in Subpart O and the grant amount is reduced.

(d) *Conditional grant.* The Secretary may make a conditional grant in which case the obligation and utilization of grant funds for activities may be restricted. Conditional grants may be made where there is substantial evidence that there has been, or there will be, a failure to meet the performance standards described in Subpart O. In such case, the reason for the conditional grant, the actions necessary to remove the condition and the deadline for taking those actions shall be specified. Failure to satisfy the condition may result in a reduction in the Entitlement amount pursuant to Subpart O.

§ 570.305 Displacement.

Where one or more CDBG activities could result in displacement, as defined

in § 570.612(a), the grantee shall develop, adopt, and make public a statement of local policy indicating the steps that will be taken, consistent with other goals and objectives of the CDBG program, to minimize displacement of persons from their homes and neighborhoods and to mitigate the adverse effects of any such displacement on low and moderate income persons. These actions, together with implementation of the local policy, will demonstrate compliance with the general policy on displacement described in § 570.612(b).

§ 570.306 Housing assistance plan.

(a) *Purpose.* In its housing assistance plan (HAP), each metropolitan city and urban county surveys its housing conditions, assesses the housing assistance needs of its low and moderate income (lower income) households, specifies goals for the number of dwelling units and lower income households to be assisted, and indicates the general locations of proposed assisted housing for lower income persons.

(b) *Use.* A grantee's HAP is a basis upon which HUD approves or disapproves assisted housing in the grantee's jurisdiction and against which HUD monitors a grantee's provision of assisted housing.

(c) *Grantee's responsibility.* Each grantee is responsible for implementing its HAP expeditiously. This includes the timely achievement of goals for assisted housing. Each grantee is expected to use all available resources and, when needed, to take all actions within its control to implement the approved HAP. Performance under the HAP is one of the factors considered in grantee performance reviews conducted as provided in Subpart O of this Part. Subpart O also provides further requirements relating to the responsibility of the grantee in implementing its HAP.

(d) General.

(1) The HAP consists of the five components described in paragraph (e). The HAP shall be submitted to HUD by an authorized representative of the grantee.

(2) Each city or county which expects to receive an Entitlement grant shall submit a HAP between September 1 and October 31 prior to its submission of the final statement required by § 570.302 of this Part. The HAP will be considered in effect from October 1 through September 30 for purposes of crediting performance against the goals established regardless of the specific date that HUD approves the HAP. A grantee which has a three

year goal which will be in effect for the fiscal year in which the final statement is to be submitted need only submit an annual goal and may incorporate by reference (to the extent that there have been no significant changes) the other required portions of the HAP.

(3) Any newly entitled community which was not made aware of its entitlement status by August 31 shall be considered unable to comply with the October 31 deadline and may submit an interim HAP in accordance with the requirements of paragraph (e)(6) of this section in lieu of the requirements of paragraphs (e)(1) through (e)(5).

(4) *For Fiscal Year 1983 Only:* Any Entitlement grantee which has not submitted a HAP for Fiscal Year 1983 must do so no later than 60 days from the effective date of this rule.

(e) *Housing conditions, needs, goals, and locations.*

(1) *Conditions.* The grantee shall describe the condition of the current housing stock in the community by providing a statistical profile (including an identification of data sources and data time frames) by tenure type (renter and owner), which describes housing conditions by the number of occupied and vacant units in standard and substandard condition. The grantee shall develop its own definition of substandard housing which, at a minimum, shall include units which do not meet the Section 8 Existing Housing Quality Standards (24 CFR 882.109) and shall include such definition in its submission. In addition, the grantee shall identify the number of its occupied and vacant substandard housing units which it considers to be suitable for rehabilitation, and include its definition of suitable for rehabilitation in the HAP submission.

(2) *Needs.*

(i) The grantee shall assess the housing assistance needs of lower income households currently residing in the community by tenure and, for households requiring rental subsidies, by household type (elderly, small family and non-elderly individuals, and large family), including households expected to be involuntarily displaced by public and private action over the three year period of the HAP. The grantee shall also assess the housing assistance needs of lower income households that could reasonably be expected to reside in the community. Such households are those that could be expected to reside in the community as a result of existing and projected employment opportunities or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary, and the estimate shall consider changes in

population known to have occurred since the last Census. For elderly households, the estimate of those that are expected to reside in the community must be based on the number known to be seeking assisted housing in the community or using the community's health services. In no case shall the estimate of all households expected to reside be less than zero.

(ii) A narrative statement accompanying the needs shall indicate the composition of the needs of lower income persons including separate numerical estimates, by tenure and household type, for households to be involuntarily displaced, households expected to reside, and total minority households. This narrative statement shall also include the source and date of the data used in developing the needs assessment. In addition, the narrative shall include a description which summarizes any special housing conditions and/or any special housing needs of particular groups of lower income households in the community. Such description shall include but need not be limited to, discussion of the special housing needs and/or conditions of:

- (A) Individual minority groups;
- (B) Impact of conversion of rental housing to condominium or cooperative ownership;
- (C) Handicapped persons; and
- (D) Single heads of household.

All handicapped single person households (elderly and nonelderly) as well as two person households which include one elderly person and one handicapped person, must be included in the elderly category, but separately identified in the narrative. All other nonelderly handicapped persons must be included with small or large family households, according to the size of their households.

(3) *Three year goal.*

(i) The grantee shall specify a realistic three year goal by tenure type for goals which are designed to improve the condition of the housing stock, and also by household type for the number of households to be assisted with rental subsidies. The three year goal must include all assisted housing resources which can be expected to be available to the grantee. In addition, the grantee shall identify the maximum number of HUD assisted rental units it will accept during that three year period of each housing type (for example, new, rehabilitation, existing) in an amount at least equal to the total number of HUD assisted rental goals by household type.

(ii) Goals relating to improving the condition of the housing stock should be

based on an evaluation of the data presented in the housing conditions portion of the HAP as well as other current data available to the grantee.

(iii) The goals relating to households to be assisted with rental subsidies must be proportional to need by household type, except that HUD may approve or require a different proportion in cases of:

- (A) Disproportionate provision of assisted housing under a previous HAP;
- (B) Significant displacement of a particular household type;
- (C) Adjustments for projects of feasible size;
- (D) Natural disasters; or
- (E) Meeting the requirements of 105 (f) and (h) of the Housing Act of 1949, as amended (42 U.S.C. 1450 *et seq.*).

(iv) The majority of goals for the rehabilitation of dwelling units must assist lower income households. For this purpose, publicly assisted rehabilitation of a dwelling unit shall be deemed to assist a lower income household when the dwelling unit, after rehabilitation, is owned and occupied by, or if rented, is occupied at affordable rents by, a lower income household.

(v) Each grantee shall include a narrative describing those *specific* actions which the grantee will take to address any special housing conditions or needs identified in § 570.306(e)(2)(ii) above as well as any actions determined necessary to ensure the timely achievement of its three year goals (including a discussion of any expected or known impediments and planned remedies).

(4) *Annual goal.*

(i) The grantee shall specify an annual goal which must include all assisted housing resources which can be expected to be available to the grantee: be established considering feasible project size; and constitute reasonable progress towards meeting the three year goal. In addition, the grantee shall indicate its preference for the distribution of HUD's assisted rental housing by housing type (for example, new, rehabilitation, existing).

(ii) In its annual goal, the grantee shall also describe the *specific* actions (including any new problems encountered and planned remedies) it will take during the year to meet its annual goal and, as appropriate, its three year goal. The grantee must also include a description of the provisions that it will make to assure that a majority of dwelling units to receive rehabilitation subsidy will assist lower income households.

(5) *General locations.*

(i) A grantee having goals for new construction or substantial rehabilitation shall identify general locations of proposed projects with the objective of furthering community revitalization, promoting housing opportunity, enabling persons that are to be involuntarily displaced to remain in their neighborhoods, avoiding undue concentrations of assisted housing in areas containing high proportions of lower income persons, and assuring the availability of public facilities and services.

(ii) The grantee may, at its option, designate any of the general locations identified pursuant to subparagraph (5)(i) above as *High Priority areas*. (Under provisions of HUD's assisted housing ranking procedures, a higher rating can be obtained under the ranking criteria with respect to responsiveness of proposed projects to preferences and priorities of applicable HAPs.)

(iii) Each general location identified under subparagraph (5)(i) above must contain at least one site which conforms to the Departmental regulations and policies relating to the site and neighborhood standards established for the appropriate HUD assisted housing program.

(iv) Identification of the general locations must be accomplished by attaching a map to the HAP except that the HUD Field Office may accept a listing where it determines that the development of a map would present a hardship for the grantee.

(6) *Interim HAP.* A newly entitled grantee which has not been notified by HUD in sufficient time to meet the October 31 HAP submittal deadline (see § 570.306(d)(3)) shall submit an interim HAP at least 45 days prior to the submission of its final statement. Such submission shall include a narrative description of the condition of the housing stock; a narrative assessment of the housing assistance needs of lower income households; a realistic annual goal indicating the number of dwelling units by housing type, and lower income households by household type, to be assisted during the balance of the fiscal year; and a listing of general locations of proposed new construction and substantially rehabilitated housing for lower income persons. This HAP submission will be effective through September 30 of the year in which it is submitted.

(f) *Amendments to the HAP.* The grantee shall notify HUD within 45 days of any changes it makes to its HAP.

(g) *HUD review of HAPs, Interim HAPs, and Amendments.* HUD will review these HAP submissions to assure that the requirements of this regulation

have been met, and will approve them unless the grantee's stated conditions and needs are plainly inconsistent with significant facts or data generally available; the grantee's proposed goals and activities are plainly inappropriate to meeting those conditions or needs; or the HAP fails to comply with other provisions of these regulations. Within 30 days of the date that the submission is received, HUD will notify the grantee in writing that the submission has been approved, disapproved, or that a final decision is still pending (in which case HUD may take no more than 30 additional days to decide whether to approve or disapprove the submission). In the event that HUD has not notified the grantee in writing within 30 days of receipt, the submission shall be considered fully approved.

(The OMB has approved the Housing Assistance Plan, Forms HUD-7091.1 and HUD-7091.2, under No. 2506-0063.)

§ 570.307 Urban counties.

(a) *Determination of qualification.* The Secretary will determine the qualifications of counties to receive entitlements as urban counties upon receipt of qualification documentation from counties at such time, and in such manner and form as prescribed by HUD. The Secretary shall determine eligibility and applicable portions of each eligible county for purposes of fund allocation under section 106 of the Act on the basis of information available from the U.S. Bureau of the Census with respect to population and other pertinent demographic characteristics, and based on information provided by the county and its included units of general local government.

(b) *Qualification as an urban county.* A county will qualify as an urban county if such county meets the definition as § 570.3(x). As necessitated by this definition, the Secretary shall determine which counties have authority to carry out essential community development and housing assistance activities in their included units of general local government without the consent of the local governing body and which counties must execute cooperation agreements with such units to include them in the urban county for qualification and grant calculation purposes.

(c) *Essential activities.* For purposes of this section, the term "essential community development and housing assistance activities" means community renewal and lower income housing activities, specifically urban renewal and publicly assisted housing. In determining whether a county has the

required powers, the Secretary will consider both its authority and, where applicable, the authority of its designated agency or agencies.

(d) *Period of qualification.*

(1) The qualification by HUD of an urban county shall remain effective for three successive federal fiscal years regardless of changes in its population during that period, except as provided under paragraph (f) of this section.

(2) During the period of qualification, no included unit of general local government may withdraw from nor be removed from the urban county for HUD's grant computation purposes, and no unit of general local government covering additional area may be added to the urban county.

(3) If some portion of an urban county's unincorporated area becomes incorporated during the three year urban county qualification period, the newly incorporated unit of general local government shall not be excluded from the urban county nor shall it be eligible for a separate grant under Subparts D, F, or I of this Part until the end of the urban county's current three year qualification period, unless the urban county fails to receive a grant for any year during that qualification period.

(e) *Grant ineligibility of included units of general local government.*

(1) An included unit of general local government cannot become eligible for an Entitlement grant as a metropolitan city during the period of qualification of the urban county (even if it becomes a central city of the metropolitan area or its population surpasses 50,000 during that period). Rather, such a unit of general local government shall continue to be included as an integral part of the urban county for the remainder of the urban county's qualification period, and no separate grant amount shall be calculated for the included unit.

(2) An included unit of general local government which is part of an urban county shall be ineligible to apply for grants under Subpart F, or to be a recipient of assistance under Subpart I, during the entire period of urban county qualification.

(f) *Failure of an urban county to receive a grant.* Failure of an urban county to receive a grant during any year shall terminate the existing qualification of that urban county, and that county shall requalify as an urban county before receiving an Entitlement grant in any successive Federal fiscal year. Such termination shall release units of general local government included in the urban county, in subsequent years, from the prohibition to receive grants under paragraphs

(d)(3), (e)(1) and (e)(2) of this section. For this purpose an urban county shall be deemed to have received a grant upon having satisfied the requirements of sections 104 (a), (b) and (c) of the Act, without regard to adjustments which may be made to this grant amount under sections 104(d) or 111 of the Act.

(g) *Notifications of the opportunity to be excluded.* Any county seeking to qualify for an Entitlement grant as an urban county for any Federal fiscal year shall notify each unit of general local government which is located, in whole or in part, within the county and which would otherwise be included in the urban county, but which is eligible to elect to have its population excluded from that of the urban county, that it has the opportunity to make such an election, and that such an election, or the failure to make such an election, shall be effective for the three year period for which the county qualifies as an urban county. These notifications shall be made by a date specified by HUD. A unit of general local government which elects to be excluded from participation as a part of the urban county shall notify the county and HUD in writing by a date specified by HUD.

§ 570.308 Joint requests.

(a) *Joint requests and cooperation agreements.*

(1) Any urban county and any metropolitan city located, in whole or in part, within that county may submit a joint request to HUD to approve the inclusion of the metropolitan city as a part of the urban county for purposes of planning and implementing a joint community development and housing program. Such a joint request shall only be considered if submitted at the time the county is seeking its three year qualification or requalification as an urban county. Such a joint request shall, upon approval by HUD, remain effective for the period for which the county is qualified as an urban county. An urban county may be joined by more than one metropolitan city, but a metropolitan city located in more than one urban county may only be included in one urban county for any program year. A joint request shall be deemed approved by HUD unless HUD notifies the city and the county of its disapproval and the reasons therefore within 30 days of receipt of the request by HUD.

(2) Each metropolitan city and urban county submitting a joint request shall submit an executed cooperation agreement to undertake or to assist in the undertaking of essential community development and housing assistance activities, as defined in § 570.307(c).

(b) *Joint grant amount.* The grant amount for a joint recipient shall be the sum of the amounts authorized for the individual Entitlement grantees, as described in section 106 of the Act. The urban county shall be the grant recipient.

(c) *Effect of inclusion.* Upon urban county qualification and HUD approval of the joint request and cooperation agreement, the metropolitan city shall be considered a part of the urban county for purposes of program planning and implementation for the period of the urban county qualification, and shall be treated the same as any other unit of general local government which is a part of the urban county.

(d) *Submission requirements.* In requesting a grant under this Part, the urban county shall make a single submission which meets the submission requirements of this Subpart D and covering all members of the joint recipient.

6. Subpart K of Part 570 is revised to read as follows:

Subpart K—Other Program Requirements

§ 570.600 General

(a) Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary, among other things, that the grant "will be conducted and administered in conformity with Pub. L. 88-352 and Pub. L. 90-284," and, further, that the grantee "will comply with the other provisions of this title and with other applicable laws." Section 104(d)(1) of the Act requires that the Secretary determine with respect to grants made pursuant to section 106(b) (Entitlement Grants) and 106(d)(2)(B) (HUD-Administered Small Cities Grants), at least on an annual basis, among other things, "whether the grantee has carried out [its] certifications in compliance with the requirements and the primary objectives of this title and with other applicable laws * * *." Certain other statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. Certain statutes or Executive Orders which may be applicable to activities assisted under the Act by their own terms are administered or enforced by governmental departments or agencies other than the Secretary or the Department. This Subpart K enumerates laws which the Secretary will treat as applicable to grants made under section 106 of the Act, other than grants to

States made pursuant to section 106(d) of the Act, for purposes of the determinations described above to be made by the Secretary under section 104(d)(1) of the Act, including statutes expressly made applicable by the Act and certain other statutes and Executive Orders for which the Secretary has enforcement responsibility. The absence of mention herein of any other statute for which the Secretary does not have direct enforcement responsibility is not intended to be taken as an indication that, in the Secretary's opinion, such statute or Executive Order is not applicable to activities assisted under the Act. For laws which the Secretary will treat as applicable to grants made to States under section 106(d) of the Act for purposes of the determination required to be made by the Secretary pursuant to section 104(d)(2) of the Act, see § 570.496.

(b) This Subpart also sets forth certain additional program requirements which the Secretary has determined to be applicable to grants provided under the Act as a matter of administrative discretion.

(c) In addition to grants made pursuant to section 106(b) and 106(d)(2)(B) of the Act (Subparts D and F of this Part, respectively), the requirements of this Subpart K are applicable to grants made pursuant to sections 107 and 119 of the Act (Subparts E and G, respectively).

§ 570.601 Pub. L. 88-352 and Pub. L. 90-284; Executive Order 11063.

Section 104(b) of the Act provides that any grant under section 106 of the Act shall be made only if the grantee certifies to the satisfaction of the Secretary that the grant "will be conducted and administered in conformity with Pub. L. 88-352 and Pub. L. 90-284." Similarly, section 107 provides that no grant may be made under that section (Secretary's Discretionary Fund) or section 119 (UDAG) without satisfactory assurances to the same effect.

(a) "Pub. L. 88-352" refers to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), which provides that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Section 602 of the Civil Rights Act of 1964 directs each Federal department and agency empowered to extend Federal financial assistance to any program or activity by way of grant to effectuate the foregoing prohibition

by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the statute authorizing the financial assistance. HUD regulations implementing the requirements of Title VI with respect to HUD programs are contained in 24 CFR Part 1.

(b) "Pub. L. 90-284" refers to Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), popularly known as the Fair Housing Act, which provides that it is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing, or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex, or national origin. Title VIII further requires the Secretary to administer the programs and activities relating to housing and urban development in a manner affirmatively to further the purposes of Title VIII. Pursuant to this statutory direction, the Secretary requires that grantees administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing.

(c) Executive Order 11063, as amended by Executive Order 12259, directs the Department to take all action necessary and appropriate to prevent discrimination because of race, color, religion (creed), sex, or national origin, in the sale, leasing, rental, or other disposition of residential property and related facilities (including land to be developed for residential use), or in the use or occupancy thereof, if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants, or contributions agreed to be made by the Federal Government. HUD regulations implementing Executive Order 11063 are contained in 24 CFR Part 107.

§ 570.602 Section 109 of the Act.

(a) Section 109 of the Act requires that no person in the United States shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with community development funds made available pursuant to the Act. For purposes of this section "program or activity" is defined as any function conducted by an identifiable administrative unit of the recipient, or by any unit of government, subrecipient,

or private contractor receiving community development funds or loans from the recipient. "Funded in whole or in part with community development funds" means that community development funds in any amount in the form of grants or proceeds from HUD guaranteed loans have been transferred by the recipient or a subrecipient to an identifiable administrative unit and disbursed in a program or activity.

(b) *Specific discriminatory actions prohibited and corrective actions.*

(1) A recipient may not, under any program or activity to which the regulations of this Part may apply directly or through contractual or other arrangements, on the ground of race, color, national origin, or sex:

(i) Deny any facilities, services, financial aid or other benefits provided under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different form from that provided to others under the program or activity.

(iii) Subject to segregated or separate treatment in any facility in, or in any matter of process related to receipt of any service or benefit under the program or activity.

(iv) Restrict in any way access to, or in the enjoyment of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from others in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which the individual must meet in order to be provided any facilities, services or other benefit provided under the program or activity.

(vi) Deny an opportunity to participate in a program or activity as an employee.

(2) A recipient may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

(3) A recipient, in determining the site or location of housing or facilities provided in whole or in part with funds under this part, may not make selections of such site or location which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the

ground of race, color, national origin, or sex; or which have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act and of this section.

(4)(i) In administering a program or activity funded in whole or in part with CDBG funds regarding which the recipient has previously discriminated against persons on the ground of race, color, national origin or sex, the recipient must take affirmative action to overcome the effects of prior discrimination.

(ii) Even in the absence of such prior discrimination, a recipient in administering a program or activity funded in whole or in part with CDBG funds should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex. Where previous discriminatory practice or usage tends, on the ground of race, color, national origin or sex, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity to which this part applies, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the prior discriminatory practice or usage, and to accomplish the purpose of the Act.

(iii) A recipient shall not be prohibited by this part from taking any action eligible under Subpart C to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage.

(5) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit any recipient from maintaining or constructing separate living facilities or rest room facilities for the different sexes. Furthermore, selectivity on the basis of sex is not prohibited when institutional or custodial services can properly be performed only by a member of the same sex as the recipients of the services.

(c) Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

§ 570.603 Labor Standards.

Section 110 of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). By reason of the foregoing requirement, the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more families. With respect to the labor standards specified in this section, the Secretary of Labor has the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 1332-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

§ 570.604 Environmental standards.

Section 104(f) expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) ~~shall be most effectively implemented in connection with the expenditure of funds under the Act. Such other provisions of law which further the purposes of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to section 104(f) of the Act and contained in 24 CFR Part 50. Section 104(g) also provides that, in lieu of the environmental protection procedures otherwise applicable, the Secretary may under regulations provide for the release of funds for particular projects to grantees who assume all of the responsibilities for environmental review, monitoring, and action pursuant to the National Environmental Policy Act of 1969, and the other provisions of law specified by the Secretary as described above, that would apply to the Secretary and his staff in undertaking such projects and financial assistance. Grantees assume such environmental review, monitoring, and action responsibilities by execution of grant agreements with the Secretary. The procedures for carrying out such environmental responsibilities are contained in 24 CFR Part 53.~~

§ 570.605 National Flood Insurance Program.

Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4103) provides that no Federal officer or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 2(a) of said Act (42 U.S.C. 4103(a)), on and after July 1, 1975 (or one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, whichever is later) for use in any area that has been identified by the Director of the Federal Emergency Management Agency (see Section 202 of Reorganization Plan No. 6 of 1973, 43 FR 11043) as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program. Notwithstanding the date of HUD approval of the recipient's application for in the case of grants made under Subpart D, the date of submission of the grantee's final statement pursuant to § 570.303, funds provided under this Part shall not be expended on or after July 1, 1975, or one year after a community has been formally notified, whichever is later, for acquisition or construction purposes in an area so identified as having special flood hazards which is located in a community not in compliance with the requirements of the National Flood Insurance Program pursuant to section 202(d) of said Act (42 U.S.C. 4103(d)). The use of any funds provided under this part for acquisition or construction purposes in identified special flood hazard areas shall be subject to the mandatory purchase of flood insurance requirements of section 102(e) of said Act (42 U.S.C. 4102e).

§ 570.606 Relocation and acquisition.

(a) Section 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4850) (the "Uniform Act") provides that the head of a Federal agency shall not approve any grant to, or contract or agreement with, a "State agency" (as defined in Section 101 of the Uniform Act, 42 U.S.C. 46-1, and 24 CFR 42.85 which includes any department, agency or instrumentality of a State or of a political subdivision of a State) under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any persons, unless he/she receives satisfactory assurance from such State agency that certain requirements of the Uniform Act with

respect to relocation payments and assistance will be met. Such assurances will be provided in the grant agreement executed by the grantee (see § 570.304(b)). The requirements of the Uniform Act and HUD implementing regulations (24 CFR Part 42) apply to any acquisition of real property by a "State agency" that is carried out with the intention that such acquisition be for a community development activity assisted under this Part and to the displacement of any family, individual, business, nonprofit organization, or farm that results from such acquisition.

(1) Any acquisition of real property by a "State agency" and any displacement resulting from such acquisition of real property shall be considered to be for an activity assisted under the CDEG program and to be subject to the regulations at 24 CFR Part 42 if the acquisition or displacement occurs on or after the date of the submission of the application requesting Federal financial assistance which is granted for a activity for which the acquisition has been or will be undertaken (or, in the case of a grant made pursuant to Subpart D, the date of submission of the grantee's final statement pursuant to § 570.303). However, if the recipient determines that any acquisition or displacement was not carried out for an assisted activity, and the HUD Area Office serving the locality concurs in that determination, such acquisition or displacement shall not be subject to these regulations. The recipient's request for HUD concurrence shall include its certification that at the time of the acquisition it did not intend to use the property for an assisted activity and appropriate documentation to establish that fact.

(2) The recipient or HUD, which shall monitor compliance with the Uniform Act, may determine that an acquisition prior to submission of an application for financial assistance (or final statement) and any resulting displacement were carried out for an assisted activity and are subject to these regulations. In the absence of such a determination by the recipient or HUD, any such acquisition or displacement occurring prior to submission of an application (or final statement) shall not be subject to these regulations. The recipient may at any time request a HUD determination as to whether or not such an acquisition and any resulting displacement are considered to be for an assisted activity and to be subject to these regulations. The request shall be submitted to the HUD Area Office and shall include appropriate background documentation.

(3) If the owner or occupant of a property disagrees with the recipient's determination that the Uniform Act and regulations at 24 CFR Part 42 do not apply to the acquisition of the property or to a displacement resulting from the acquisition, he/she may file an appeal under 24 CFR Part 42 Subpart J (Appeals), whether or not the acquisition or displacement occurs before or after submission of the application for financial assistance (or final statement). The specific payments and other assistance for which an appeal may be filed are set forth in 24 CFR 42.703(a).

(4) The costs of relocation payments and assistance under Title II of the Uniform Act shall be paid from funds provided by this Part and/or such other funds as may be available by the locality from any source.

(b) Pursuant to section 105(a)(11) of the Act, the grantee may also provide relocation payments and assistance for individuals, families, businesses, nonprofit organizations and farm operations displaced by an activity that is not subject to the Uniform Act, and also may provide relocation payments and other assistance at levels above those established under the Uniform Act. Unless such payments and assistance are made pursuant to State or local law, the recipient shall make such payments only upon the basis of a written determination that such payments are appropriate (see § 570.201(i)) and shall adopt a written policy available to the public setting forth the relocation payments and assistance it elects to provide and providing for equal payments and assistance within each class of displacees.

(c) Section 305 of the Uniform Act (42 U.S.C. 4655) provides that the head of a Federal agency shall not approve any grant to, or contract or agreement with, a State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property unless he/she receives satisfactory assurances from such State agency that: (1) In acquiring real property it will be guided, to the greatest extent practicable under State law, by the land acquisition policies in section 301 of the Uniform Act (42 U.S.C. 4651) and the provisions of section 302 thereof (42 U.S.C. 4651) and (2) property owners will be paid or reimbursed for necessary expenses as specified in sections 303 and 304 of the Uniform Act (42 U.S.C. 4653, 4654). Appropriate assurances to such effect

will be provided in the grant agreement executed by the grantee.

§ 570.607 Employment and contracting opportunities.

(a) Grantees shall comply with Executive Order 11246 and the regulations issued pursuant thereto (41 CFR Chapter 60) which provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in all phases of employment during the performance of Federal or federally assisted construction contracts. As specified in Executive Order 11246 and the implementing regulations, contractors and subcontractors on Federal or federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.

(b) Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) requires, in connection with the planning and carrying out of any project assisted under the Act, that to the greatest extent feasible opportunities for training and employment be given to lower income persons residing within the unit of local government or the metropolitan area (or nonmetropolitan county) in which the project is located, and that contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part by persons residing in the same metropolitan area (or nonmetropolitan county) as the project. Grantees shall adopt appropriate procedures and requirements to assure good faith efforts toward compliance with the statutory directive. HUD regulations at 24 CFR Part 135 are not directly applicable to activities assisted under this Part but may be referred to as guidance indicative of the Secretary's view of the statutory objectives in other contexts.

§ 570.608 Lead-based paint.

(a) Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831(b)) directs the Secretary to prohibit the use of lead-based paint in residential structures constructed or rehabilitated with Federal assistance in any form. Such prohibitions are contained in 24 CFR Part 35, Subpart B, and are applicable to residential structures constructed or rehabilitated with assistance provided under this Part.

(b) Section 302 of the Lead-Based Poisoning Prevention Act (42 U.S.C. 4822) directs the Secretary to establish procedures to eliminate as far as practicable the hazards of lead-based paint poisoning with respect to any existing housing which may present hazards and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Pursuant to such authority and the Secretary's general rulemaking authority, the Secretary has promulgated requirements regarding the elimination of lead-based paint hazards in HUD-associated housing at 24 CFR Part 35, Subpart C, and requirements regarding notification to purchasers and tenants of HUD-associated housing constructed prior to 1950 at 24 CFR Part 35, Subpart A. The requirements of 24 CFR Part 35, Subpart A, are applicable to purchasers and tenants of residential structures constructed prior to 1950 and assisted under this Part, and the requirements of 24 CFR Part 35, Subpart C, are applicable to existing residential structures which are rehabilitated with assistance provided under this Part.

§ 570.609 Use of debarred, suspended, or ineligible contractors or subrecipients.

CDBG funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the services of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement in ineligibility status under the provisions of 24 CFR Part 24.

~~§ 570.610 Uniform administrative requirements and cost principles.~~

~~The recipient, its agencies or instrumentalities, and subrecipients shall comply with the policies, guidelines, and requirements of OMB Circulars Nos. A-102, Revised A-110, A-67, and A-122, as applicable, as they relate to the acceptance and use of Federal funds under this Part.~~

~~§ 570.611 Conflict of interest.~~

~~(a) Applicability.~~

~~(1) In the procurement of supplies, equipment, construction, and services by recipients, and by subrecipients (including those specified at § 570.204(e)), the conflict of interest provisions in Attachment O of OMB Circulars A-102, and A-110, respectively, shall apply.~~

~~(2) In all cases not governed by Attachment O of the OMB Circulars, the provisions of this section shall apply. Such cases include the acquisition and disposition of real property and the provision of assistance by the recipient.~~

by its subrecipient, or to individuals, businesses and other private entities under eligible activities which authorize such assistance (e.g., rehabilitation, preservation and other improvements of private properties or facilities pursuant to § 570.202, or grants, loans and other assistance to businesses, individuals and other private entities pursuant to §§ 570.203, 570.204 or 570.455).

(b) *Conflicts prohibited.* Except for approved eligible administrative or personnel costs the general rule is that no persons described in paragraph (c) below who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this Part or who are in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. For the UDAG program, the above restrictions shall apply to all activities that are a part of the UDAG project, and shall cover any such interest or benefit during, or at any time after, such person's tenure.

(c) *Persons covered.* The conflict of interest provisions of paragraph (b) of this section apply to any person who is an employee, agent, consultant, officer, or elected official or appointed official of the recipient or of any designated public agency or subrecipient under § 570.204, which are receiving funds under this Part.

(d) *Exceptions—threshold requirements.* Upon the written request of the recipient, HUD may grant an exception to the provisions of paragraph (b) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the Act and the effective and efficient administration of the recipient's program or project. An exception may be considered only after the recipient has provided the following:

(1) A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

(2) An opinion of the recipient's attorney that the interest for which the exception is sought would not violate State or local law.

(e) *Factors to be considered for exceptions.* In determining whether to grant a requested exception after the recipient has satisfactorily met the requirements of paragraph (d) of this

section, HUD shall consider the cumulative effect of the following factors, where applicable:

(1) Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;

(2) Whether an opportunity was provided for open competitive bidding or negotiation;

(3) Whether the person affected is a member of a group or class of low or moderate income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;

(4) Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process with respect to the specific assisted activity in question;

(5) Whether the interest or benefit was present before the affected person was in a position as described in paragraph (b) of this section;

(6) Whether undue hardship will result either to the recipient or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

(7) Any other relevant considerations.

§ 570.642—Displacement

(a) *Definition.* "Displacement" means the involuntary movement, except temporary relocation, of a household from a dwelling unit resulting from its acquisition, rehabilitation, or demolition when: (1) Funded in whole or in part with CDBG funds; or (2) funded with non-CDBG funds where the acquisition, rehabilitation, or demolition is a prerequisite for an activity carried out with CDBG funds (e.g., acquisition of land with local funds for a neighborhood facility to be constructed with CDBG funds). "Displacement" also means the involuntary movement, except temporary relocation, of a household from a dwelling unit necessitated by CDBG assisted code enforcement.

(b) *General policy.* Section 902 of the Housing and Community Development Amendments of 1974 (Pub. L. 93-557) provides that in the administration of Federal housing and community development programs, consistent with other program objectives and goals, involuntary displacement of persons from their neighborhoods should be minimized. This general policy is implemented in the Entitlement grant program through the requirements of § 570.305. It is implemented in the HUD administered Small Cities program by

means of selection criteria described in § 570.431(e) and § 570.432(e), and in the Urban Development Action Grant program by means of the selection criterion described in § 570.459(h).

7. Subpart M of Part 570 is revised to read as follows:

Subpart M—Loan Guarantees

§ 570.700 Eligible applicants.

(a) Units of general local government entitled to receive a grant under section 106(b) of the Act (metropolitan cities and urban counties) may apply for loan guarantee assistance under this Subpart.

(b) Public agencies may be designated by eligible units of general local government to receive a loan guarantee on notes or other obligations issued by the public agency in accordance with this Subpart. In such case the applicant unit of general local government shall be required to pledge its current and future grants under Title I as security for the notes or other obligations issued by the public agency.

§ 570.701 Eligible activities.

Loan guarantee assistance under this Subpart may be utilized for the following activities undertaken by the unit of general local government or its designated public agency, provided such activities are otherwise eligible under the provisions of § 570.201 through § 570.203 and meet the requirements of § 570.200.

(a) Acquisition of improved or unimproved real property in fee or by long-term lease, including acquisition for economic development purposes.

(1) Acquisition for economic development purposes may include agreements for the purchase of real property to be improved by the seller prior to the acquisition. Obligations to purchase under such agreements may be contingent on the procurement of interim financing by the seller, and may provide for a leaseback of the improved property to the seller, including an option to purchase after full payment of the loan guaranteed under this Subpart.

(2) In the purchase of real property pursuant to paragraph (a)(1) of this section, the assisted activity includes the acquisition and/or improvements undertaken by the seller in whole or in part with interim financing obtained in reliance on the obligation to purchase the improved property with guaranteed loan funds. The agreement described in paragraph (a)(1) of this section shall specify that the obligation to purchase is contingent on compliance in the undertaking of interim financed activities with the requirements

applicable to activities assisted under this Subpart.

(b) Rehabilitation of real property owned or acquired by the unit of general local government or its designated public agency.

(c) Payment of interest on obligations guaranteed under this Subpart.

(d) Relocation payments and assistance for individuals, families, businesses, nonprofit organizations and farm operations displaced as a result of activities financed with loan guarantee assistance.

(e) Clearance, demolition and removal, including movement of structures to other sites, of buildings and improvements on real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

(f) Site preparation, including construction, reconstruction, or installation of public improvements, utilities, or facilities (other than buildings) related to the redevelopment or use of the real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

§ 570.702 Application requirements.

(a) Presubmission requirements.

(1) Prior to submission of an application for loan guarantee assistance to HUD, the applicant must comply with the presubmission requirements specified in § 570.301 with respect to the activities proposed for loan guarantee assistance.

(2) If an application for loan guarantee assistance is simultaneous with the applicant's submission for its entitlement grant, the applicant may utilize the statement of community development objectives and projected use of funds prepared for its annual grant pursuant to § 570.301 by including and identifying the activities to be undertaken with the guaranteed loan funds.

(b) Submission requirements. An application for loan guarantee assistance shall be submitted to the appropriate HUD Area Office and shall consist of the following:

(1) A copy of the applicant's final statement of community development objectives and projected use of guaranteed loan funds.

(2) A description of how each of the activities to be carried out with the guaranteed loan funds meets one of the standards in § 570.901(b).

(3) A schedule for repayment of the loan which identifies the sources of repayment.

(4) A certification providing assurance that the applicant possesses legal authority to make the pledge of grants required under § 570.703(b)(2).

(5) Certifications required pursuant to § 570.303. For the purposes of this requirement, the terms "grant" and "CDBG" in such certifications shall also mean loan guarantee.

(c) *Economic feasibility and financial risk.* The Secretary will make no determination with respect to the economic feasibility of projects proposed to be funded with the proceeds of guaranteed loans; such determination is the responsibility of the applicant. In determining whether a loan guarantee constitutes an acceptable financial risk, the Secretary will consider the applicant's current and future entitlement block grants as the primary source of loan repayment. Approval of a loan guarantee under this Subpart is not to be construed, in any way, as indicating that HUD has agreed to the feasibility of a project beyond recognition that block grant funds should be sufficient to retire the debt.

(d) *HUD review and approval of applications.*

(1) HUD will normally accept the grantee's certifications. The Secretary reserves the right, however, to consider relevant information which challenges the certifications and to require additional information or assurances from the grantee as warranted by such information.

(2) The Area Office shall review the application for compliance with requirements specified in this Subpart and forward the application together with its recommendation for approval or disapproval of the requested loan guarantee to HUD Headquarters.

(3) The Secretary may disapprove an application, or may approve loan guarantee assistance for an amount less than requested, for any of the following reasons:

(i) The Secretary determines that the guarantee constitutes an unacceptable financial risk. Factors that will be considered in assessing financial risk shall include, but not be limited to, the following:

(A) The length of the proposed repayment period;

(B) The ratio of expected annual debt service requirements to expected annual grant amount;

(C) The applicant's status as a metropolitan city or urban county during the proposed repayment period; and

(D) The applicant's ability to furnish adequate security pursuant to § 570.703(b).

(ii) The guarantee requested exceeds the maximum loan amount specified under § 570.703(a).

(iii) Funds are not available in the amount requested.

(iv) The applicant's performance does not meet the standards prescribed in § 570.909.

(v) Activities to be undertaken with the guaranteed loan funds are not listed as eligible under § 570.201 through § 570.203 and § 570.701 (a) through (f).

(4) The Secretary will notify the applicant in writing that the loan guarantee request has either been approved, reduced or disapproved. If the request is reduced or disapproved, the applicant shall be informed of the specific reasons for reduction or disapproval. If the request is approved, the Secretary shall issue an offer of commitment to guarantee obligations of the applicant or the designated public agency subject to such conditions as the Secretary may prescribe, including the conditions for release of funds described in paragraph (e).

(e) *Environmental review.* The applicant shall comply with HUD environmental review procedures (24 CFR Part 58) leading to certification for the release of funds for each project carried out with loan guarantee assistance. These procedures set forth the regulations, policies, responsibilities and procedures governing the carrying out of environmental review responsibilities of applicants.

For the purposes of this paragraph, the "release of funds" shall be deemed to occur at the time of guarantee of notes or other obligations by the Secretary.

§ 570.703 Loan requirements.

(a) *Maximum loan amount.* No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations guaranteed under this Subpart on behalf of the applicant and each public agency duly designated by the applicant would thereby exceed an amount equal to three times the amount of the entitlement grant made pursuant to § 570.304 to the applicant.

(b) *Security requirements.* To assure the repayment of notes or other obligations and charges incurred under this Subpart and as a condition for receiving loan guarantee assistance, the applicant (or the applicant and designated public agency, where appropriate) shall:

(1) Enter into a contract with HUD, in a form acceptable to the Secretary, for repayment of notes or other obligations guaranteed hereunder;

(2) Pledge any grant made or for which the applicant may become eligible under this Part; and

(3) Furnish, at the discretion of the Secretary, such other security as may be

deemed appropriate by the Secretary in making such guarantees, including increments in local tax receipts generated by the activities assisted under this Part or disposition proceeds from the sale of land or rehabilitated property.

(c) *Use of grants for loan repayment.* Notwithstanding any other provision of this Part:

(1) Grants allocated to an applicant under this Part (including program income derived therefrom) are authorized for use in the payment of principal and interest due (including such servicing, underwriting, or other costs as may be authorized by the Secretary) on the notes or other obligations guaranteed pursuant to this Subpart.

(2) The Secretary may apply grants pledged pursuant to paragraph (b)(2) of this section to any amounts due under the note or other obligation guaranteed pursuant to this Subpart, or to the purchase of such obligation, in accordance with the terms of the contract required by paragraph (b)(1) of this section.

(d) *Debt obligations.* Notes or other obligations guaranteed pursuant to this Subpart shall be in the form and denominations prescribed by the Secretary. Such notes or other obligations shall be issued and sold only to the Federal Financing Bank under such terms as may be prescribed by the Secretary and the Federal Financing Bank.

(e) *Taxable obligations.* Interest earned on obligations guaranteed under this Subpart shall be subject to Federal taxation as provided in section 108(j) of the Act.

All applicants or designated public agencies issuing guaranteed obligations must bear the full cost of interest.

(f) *Loan repayment period.* As a general rule, the repayment period for a loan guaranteed under this Subpart shall be limited to six years. However, a longer repayment period may be permitted in special cases where it is deemed necessary to achieve the purposes of this Part.

§ 570.704 Federal guarantee.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this Subpart. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

§ 570.706 Applicability of rules and regulations.

The provisions of Subparts A, C, D, J, K and O shall apply to this Subpart, except to the extent they are specifically modified or augmented by the provisions of this Subpart.

8. Subpart O of Part 570 is revised to read as follows:

Subpart O—Program Management

§ 570.901 Review for compliance with primary objectives.

(a) *General.* The Secretary will review each applicable grantee's performance to determine whether the grantee has complied with the requirements under § 570.200(a)(2).

(b) *Standards.* In determining whether each of the grantee's funded activities meets one of the broad national objectives contained in its certification, the Secretary will consider whether the activity falls within one of the following standards:

(1) *Activities benefiting low and moderate income persons.* The following activities, in the absence of substantial evidence to the contrary, will be considered to benefit low and moderate income persons. In determining whether an activity will actually benefit low and moderate income persons, the net effect of the completed activity shall be considered. Thus, mere location of an activity in a low or moderate income area, while generally a primary consideration, does not conclusively demonstrate that the activity benefits low and moderate income persons. Further, the grantee shall appropriately ensure that activities that meet this standard do not benefit moderate income persons to the exclusion of low income persons.

(i) Any activity, other than residential rehabilitation, which is designed so that at least a majority of the beneficiaries are low and moderate income persons. The following are examples of activities which meet this standard:

(A) An activity, other than residential rehabilitation, which serves an area, delineated by the recipient, where a majority of the residents are low and moderate income persons. Such an area need not be coterminous with census tract boundaries.

(B) Economic development activities designed to create or retain permanent jobs, the majority of which are available or will be available to low and moderate income persons. Jobs are considered to be available to low and moderate income persons based on the nature and extent of the skills, education, and experience required to qualify for the

jobs, training opportunities which would make such jobs available to low and moderate income persons who would not otherwise qualify, advertising and recruiting efforts directed toward low and moderate income persons, and the accessibility of the jobs to areas where substantial numbers of low and moderate income persons reside.

(C) A facility, such as a senior center, which is used principally by low and moderate income persons. A facility that is designed for and used by senior citizens or the handicapped will be presumed to meet this standard.

(D) An activity which has income eligibility requirements that limit the benefits of the activity to low and moderate income persons.

(E) General improvements to a neighborhood business area which serves a primarily residential area with a majority of low and moderate income persons. General improvements include, but are not limited to, street and related improvements, walkways, parking facilities, and facade improvements.

(F) Assistance to a specific business which provides services primarily to residents of an area with a majority of low and moderate income persons.

(ii) A special project directed to removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements.

(iii) An activity which must be carried out prior to or as an integral part of an activity which will principally benefit low and moderate income persons, where the cost of the assisted activity is not unreasonable in relation to the low and moderate income benefit to be provided. An example is the extension of water and sewer lines to permit construction of lower income housing.

(iv) Rehabilitation of a residential structure occupied by low and moderate income persons. Where such a structure contains more than one dwelling unit, it will be considered to qualify under this standard if, following rehabilitation, the majority of the units are occupied by low and moderate income persons at affordable rents. A grantee shall adopt and make public its criteria for determining "affordable rents" for this purpose.

(v) An eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly housing project where at least 20 percent of the units will be occupied by low and moderate income households; except that, in the case of a project

where less than a majority of the units will be so occupied, the portion of total development cost of the project to be borne by CDBG funds may be no greater than the proportion of the total number of units in the project which will be occupied by low and moderate income households.

(vi) An activity that serves an area having less than a majority of low and moderate income persons will also be considered to meet the objective of benefiting low and moderate income persons where the grantee community has no areas within its jurisdiction where low and moderate income persons constitute a majority, or the grantee has so few such areas or that such areas are so small that it is plainly inappropriate to address the needs of its low and moderate income residents by limiting funded activities to such areas. In such circumstances, the activity must:

(A) Serve an area that is among those having the largest proportion of low and moderate income persons in the grantee's jurisdiction. Beginning with the program year funded from Federal Fiscal Year 1985 appropriations, only areas that are within the upper one-fourth of all areas of the grantee's jurisdiction in terms of degree of concentration of low and moderate income persons will be considered to meet this test;

(B) Clearly meet the needs of low and moderate income persons in the area; and

(C) Benefit low and moderate income persons at least in proportion to their share of the population in the area the activity serves.

(2) *Activities which aid in the prevention or elimination of slums or blight.* The following activities, in the absence of substantial evidence to the contrary, will be considered to aid in the prevention or elimination of slums or blight:

(i) *Activities in a slum or blighted area.*

(A) *Definition of a slum or blighted area.* An area delineated by the grantee:

(1) Which meets a definition of a slum, blighted, deteriorated, or deteriorating area under State or local law; and

(2) Where there is a substantial number of deteriorating or dilapidated buildings or improvements throughout the area.

(B) *Qualifying activities.* In order for an activity to qualify under this standard, it must be designed to address one or more of the conditions which qualified the area. Residential rehabilitation will be considered to meet this standard only where each structure rehabilitated is considered substandard under local definition before

rehabilitation. At a minimum, this definition must include units which do not meet the Existing Housing Quality Standards (24 CFR 882.109). Also, in cases where all deficiencies making a structure substandard are eliminated, this standard permits assistance for less critical work on that structure. (Note: Despite this restriction, any rehabilitation activity which benefits low and moderate income households, as described in paragraph (b)(1)(iv) of this section, can be undertaken without regard to the area in which it may be located or the extent of rehabilitation assisted.)

(C) *Documentation.* The grantee must describe in its files the area boundaries, and the conditions of the area at the time of its designation.

(ii) *Activities outside a slum or blighted area.* Acquisition, demolition, rehabilitation, relocation, and historic preservation activities designed to eliminate specific conditions of blight or physical decay on a spot basis not located in a slum or blighted area. Under this standard, rehabilitation for other than low and moderate income households is limited to the extent necessary to eliminate specific conditions detrimental to public health and safety.

(iii) *Urban renewal completion.*

Activities included in the urban renewal plan most recently approved by HUD under Title I of the Housing Act of 1949, as amended (42 U.S.C. 1450 *et seq.*) which are necessary to complete an urban renewal project.

(3) *Activities designed to meet community development needs having a particular urgency.* In the absence of substantial evidence to the contrary, an activity will be considered to address this standard if the recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition will generally be considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the recipient.

(c) *Area benefit activities.* For purposes of determining compliance with the primary objectives, activities of the same type that serve different areas will be considered separately on the basis of their individual service area.

(d) *Planning and administrative costs.* Program funds expended for planning and administrative costs under § 570.205

and § 570.206 will be considered to address the primary objectives.

(e) *Transition provision.*

(1) *Continuation of projects approved under past rules.* Activities carried out with CDBG funds from any year (including those carried out with funds awarded in Federal Fiscal Year 1982 and thereafter) which are integral components of projects approved by HUD in program years 1979, 1980 and 1981 will be considered to address the primary objectives if such projects meet criteria set forth at 24 CFR 570.302 (d), (e) or (f) under regulations published on August 27, 1979 (44 FR 50261).

(2) *All other activities.* Activities for which CDBG funds are obligated within 120 days of the effective date of this rule will be considered to address the primary objectives if such activities meet either the standards of this section or the criteria set forth at 24 CFR 570.302 (d), (e), or (f) under regulations published on August 27, 1979 (44 FR 50261).

(f) *Appropriateness to furthering primary objective.*

(1) Notwithstanding that each of a grantee's funded activities may comply with one of the standards contained in paragraph (b) of this section, the Secretary may determine that an entitlement grantee's use of funds, taken as a whole, is plainly inappropriate to furthering the primary objective of the Act.

(2) If a majority of funds expended during a period reported upon by a grantee in a performance report submitted to the Secretary has been expended on activities which meet the standard identified in paragraph (b)(1) of this section, the grantee's use of funds taken as a whole will not be subject to further examination with respect to whether the grantee's use of funds, taken as a whole, is plainly inappropriate to furthering the primary objective of the Act. If a majority of funds expended during a reporting period has not been expended on activities meeting such standard, the grantee's performance will be subject to further examination taking into consideration, among other factors, the extent to which funded activities undertaken in prior years have been directed to the needs of low and moderate income persons.

(3) In determining the proportion of funds expended for activities meeting the standard identified in paragraph (b)(1) of this section for purposes of applying the review standard prescribed in the first sentence of subparagraph (2) above:

(i) Cost of administration and planning cited in § 570.205 and § 570.206 will be assumed to benefit low and moderate income persons in the same proportion as the remainder of the grant, and, accordingly, shall be excluded from the calculation;

(ii) Funds expended for repayment of urban renewal temporary loans shall also be excluded.

(g) *Determination of failure of compliance.* If the Secretary determines that an activity does not meet any of the standards identified in paragraph (b) of this section or that an Entitlement

grantee's use of funds, taken as a whole, is plainly inappropriate to furthering the primary objective of the Act, the grantee will be notified and provided a reasonable opportunity to demonstrate to the satisfaction of the Secretary that the activity questioned addresses one of the broad national objectives or that the Entitlement grantee's use of funds has been carried out to further the primary objective of the Act. Failure to so demonstrate will be cause for the Secretary to determine, pursuant to Section 104(d)(1) of the Act, that the grantee has failed to carry out its

activities and its certifications in accordance with the primary objectives of the Act.

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(Title I, Housing and Community Development Act of 1974, as amended '42 U.S.C. 5301 *et seq.*) and Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: September 16, 1983.

Stephen J. Bollinger,
Assistant Secretary for Community Planning and Development.

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APPENDIX C

U.S. Department
of
Housing and Urban Development (HUD)
Office of Community Planning
and Development

Operating Instructions for the Fiscal
Year 1984 State CDBG Program

February 17, 1984

The following guidelines were issued by HUD to its regional offices to guide HUD and State CDBG staffs in responding to the new requirements established by the Urban-Rural Recovery Act passed in November, 1983. These guidelines should be read in conjunction with the HUD regulations of September 23, 1983 (see Appendix B) to understand the full implications of the revised requirements for the 1984 State CDBG Program.

These interpretative guidelines and the companion HUD regulations will be in effect until HUD adopts separate regulations for the State (Non-entitlement) CDBG Program in the fall of 1984.



INTRODUCTION

Background and Applicability

This provides policy and procedural guidance with respect to Fiscal Year 1984 grants for implementing new statutory requirements enacted by the Housing and Urban-Rural Recovery Act of 1983 (the 1983 Amendments) to the Housing and Community Development Act of 1974 (the Act). The purpose is to provide sufficient information to you and State officials to begin the FY 84 programs and minimize disruption.

We anticipate making revisions to the State Program regulations, 24 CFR Subpart I, available for public comment in the Spring. A final rule will be published after the comments have been considered. In the interim, the new statutory requirements should be followed as described in this memorandum. Each HUD Form 7082 must include the special contract condition contained in attachment 4, which provides that the requirements of the amendments to the Act, which supersede or are not provided for in the regulations, shall govern the use of the grants until revised regulations are published. States should be advised that when final regulations are published for effect, the new regulations will govern in the event of any inconsistencies with this memorandum. The existing Subpart I regulations remain applicable except to the extent superseded by the 1983 Amendments.

A significant change in the State Program under the new legislation is the addition to the Act of section 106(d)(6), pursuant to section 106(i) of the 1983 Amendments, which provides that any activity conducted by units of general local government with State-allocated grants shall be subject to the applicable provisions of Title I and other Federal laws "in the same manner and to the same extent" as activities conducted with entitlement grants. In view of this requirement, references and citations to certain regulations in Subparts C, K and O pertaining to the entitlement grant program are included in this memorandum as also applicable to the State program where the Subpart I regulations are inconsistent with, or do not cover, the requirements. Unless otherwise specified, such references are to the regulations published in the Federal Register on September 23, 1983, at page 43538 et seq.

We are still examining the issue of the impact of section 106(i) of the 1983 Amendments on the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. We will issue further guidance on this matter in the near future. In the meantime, remind States that the Uniform Act applies and that the existing relocation regulations at 24 CFR Part 42 can be used as guidance.

Because of the provisions to the Act added by section 106(i) of the 1983 Amendments, section 109 of the Act, as provided for in §570.602 of Subpart K, applies to the State Program as well as E.O. 11246 as provided for in section 570.607(a) of the regulations.

The instructions have been divided by major program phases, as follows:

- Program Design Considerations
- Submission Requirements and HUD Actions
- Program Implementation

Within the phases there are references to guidance provided in the following attachments:

Attachment 1 Statutory References
Attachment 2 Certification Language
Attachment 3 Processing Instructions
Attachment 4 Special Condition
Attachment 5 Grant Agreement

How to Proceed

This is the second document you have received on the new requirements. The first, a telegram dated December 1, 1983, highlights the provisions of the 1983 Amendments affecting the Program. When we issued the telegram, we indicated that additional information would be forthcoming. We also asked that, where possible, you advise States to withhold submission of their Final Statements until this additional information was available. Using this document as a guide, you should now advise your States of the new or additional actions which are necessary and you may accept Final Statements. However, no FY 84 funds may be awarded until all requirements are met.

Field staff must make every effort to ensure that the States understand the new statutory requirements and the actions needed to satisfy them. This is an excellent opportunity for field staff to increase technical assistance to States to make this transition period as easy as possible. Since many States are already into the process of developing their FY 84 programs, some actions already taken may have to be revised or supplemented to comply with the new requirements.

Availability of Funds

The sub-assignment of funds for FY 84 will represent an estimated amount for each State. This is because the law added a potential new set of Urban Counties which will require time for the qualification process. The final calculations for each State cannot be determined until this process is complete. We do not think that changes in amounts will be significant.

The estimated amounts were issued on February 17, 1984. Field offices may use these amounts to contract with States. All advisory material and proposed and Final Statements prepared by States should indicate that the amount is an estimate. When final amounts are available, in late Spring, we will promptly issue a new sub-assignment with the exact amounts for each State. You may have to adjust a State's grant agreement to reflect the new amounts once they are available.

PROGRAM DESIGN CONSIDERATIONS

States must consider four major areas changed by the recent amendments: low and moderate income/principal benefit; the community development plan; public participation; and eligibility.

I. Low and Moderate Income Benefit Requirements

A. State Certification for Principal Benefit

Section 101(b) of the 1983 Amendments amends section 104(b)(3) of the Act to require that the State certify that the aggregate use of the CDBG funds it receives, over a specified period, shall principally benefit low and moderate income persons, in that not less than 51 percent of the funds are so used. This principal benefit requirement applies to the total amount of grant funds the State receives during the specified period, rather than to the funds received by each individual recipient. The period used must be specified by the State in its certification and will be defined by grant allocation(s). It may be one, two or three consecutive grants, beginning with the Fiscal Year 1984 allocation. The State's distribution of funds to recipients for activities constitutes the use of funds for the purposes of the certification. The activities must, therefore, be sufficiently identified to establish qualification for the State certification under the applicable standards of §570.901(b)(1) of the regulations. Since we will not know finally if the principal benefit requirement has been satisfied until the funds are totally expended by the recipients, we will have to base our initial judgment on planned benefit, which will be verified when all activities are completed.

If you have already received a Final Statement for FY 84, advise the State to submit this new certification, together with the other additional new certifications, as soon as possible. No grant can be made to the State until all of the required certifications have been submitted to HUD.

B. Definitions of Low and Moderate Income Persons

Previously, States could establish their own definitions of low and moderate income. Now States must use the statutory definition, added by section 102(c) of the 1983 Amendments, in section 102(a)(20), of the Act which defines "persons of low and moderate income" to mean the same as the term "lower income families" in the Section 8 Assisted Housing Program. Figures are provided on a county-by-county basis in nonmetropolitan areas, and on a MSA-by-MSA basis for metropolitan areas for both low and

moderate and low income persons. These figures are available from the Area Economist and should be given to the States as soon as possible.

Since units of general local government may be using surveys, income verification, or census data to document benefit, States will need the current Section 8 income limits for income surveys or verification. If a State intends to use the 1980 census figures as a basis for determining benefit, then it must use the 1979 adjusted Section 8 income limits, since the 1980 census data is based on 1979 incomes. A memorandum dated January 23, 1984 described the procedure for calculating the 1979 adjusted figures.

C. Activities Benefiting Low and Moderate Income Persons

1. Except as otherwise provided under the 1983 Amendments as described below, review standards applicable to activities benefiting low and moderate income persons are set forth in Subpart O of the regulations at section 570.901(b)(1).
 - a. Section 105(c) of the 1983 Amendment adds section 105(c)(1) to the Act which provides that an activity described in sections 105(a)(14) and (17) of the Act will be considered to benefit low and moderate income persons only if it meets the criteria in paragraphs (1), (2), or (3) below:
 - (1) The activity must be carried out in a neighborhood consisting predominantly of persons of low and moderate income and provide services to such persons; (this is equivalent to the examples described in §570.901(b)(1)(i)(E) and (F)); or
 - (2) The activity must involve facilities designed for use predominantly by persons of low and moderate income; (this is equivalent to the example described in §570.901(b)(1)(i)(C)); or
 - (3) The activity must involve employment of persons, a majority of whom are persons of low and moderate income; (this is equivalent to the example described in §570.901(b)(1)(i)(B)).

2. Area Benefit Activities

- a. The current regulations at §570.901(b)(1)(i)(A) establish a general standard by which an activity (other than residential rehabilitation) which serves an area where a majority of the residents are low and moderate income persons, meets the objective of benefit to such persons. States must define or have recipients define what constitutes an area. While the area need not be coterminous with Census tracts or enumeration districts, income data characteristics must be available to demonstrate that at least 51 percent of the residents are low and moderate income.
- b. Section 105(e) of the 1983 Amendments adds an area benefit provision at section 105(c)(2) of the Act:
 - (1) The difference from the current rule is that not less than 51 percent (not just a majority) of the residents of the area must be persons of low and moderate income.
 - (2) The new statutory provision also states that the activity must be "clearly designed to meet identified needs of persons of low and moderate income" in the area. This is essentially equivalent to the language in the second and third sentences of §570.901(b)(1) of the regulations.
- c. The current regulations at §570.901(b)(1)(vi) establish a separate standard for area benefit in exception cases. The new provision at section 105(c)(2)(B) of the Act provides for an exception to the general area benefit requirement but is different in two respects from the current rule.
 - (1) The exception provision applies only to grantees with no areas where 51 percent of the residents are persons of low and moderate income; and
 - (2) The area served by an activity qualifying under this provision must have "a larger proportion of persons of low and moderate income than not less than 75 percent of (all of) the other areas" in the applicant's jurisdiction. For purpose of this requirement, jurisdiction means the entire unit of general local government.

(3) This rule may be implemented by taking the total number of areas having lower percentages of low and moderate income persons than the area in which the activity would occur, dividing that by the number of all areas (except the area where the activity would occur) and multiplying the result by 100. If the result meets or exceeds 75%, the activity is considered to principally benefit low and moderate income persons.

- d. Clarification of Residential Rehabilitation - The standard at §570.901(b)(1)(iv) requires that a "majority " of the units must be occupied after rehabilitation by low and moderate income persons at affordable rents. Although this standard could not be met in a two-unit structure unless both units were so occupied, HUD will consider the rehabilitation of a two-unit structure to benefit persons of low and moderate income so long as one of the units is occupied after rehabilitation by low and moderate income persons.

D. Counting Funds Used for the Principal Benefit Certification

1. Standards for low and moderate income benefit - Except as provided in 2 below, where an activity meets the standards for low and moderate income benefit, as described in §570.901(b)(1), all CDBG funds for that activity are counted toward the 51 percent requirement. This includes funds that qualify under the rule at §570.901(b)(1)(vi) for activities in areas with less than a majority of low and moderate income persons.
- a. No funds are counted as low and moderate income benefit if they are used for an activity that only meets the standards for activities which aid in the prevention or elimination of slums or blight under the standards of §570.901(b)(2), or activities designed to meet community development needs having a particular urgency under the standards of §570.901(b)(3). If an activity meets the slum or blight or urgent needs standards, but also meets a low and moderate income benefit standard, all of the funds for that activity are counted as low and moderate income benefit.
- b. As provided in §570.901(f)(3)(i), all funds used for planning and administration pursuant to §§570.205 and 570.206 (excluding "planning only

grants") are considered to benefit low and moderate income persons in the same proportion as the remainder of the grant and are excluded from the calculation. Therefore, the 51 percent test is applied to the aggregate of State funds, after excluding costs for planning, management and administration for both States and units of general local government. Funds for "planning only" grants will be included in the calculation; they will count toward the 51 percent benefit requirement only if the activity meets a standard in §570.901(b)(1) to benefit low and moderate income persons.

2. New statutory provision - section 105(e) of the 1983 Amendments adds section 105(c)(3) to the Act which provides that any activity carried out with CDBG funds that involves the acquisition or rehabilitation of property to provide housing is considered to benefit persons of low and moderate income only to the extent such housing will, upon completion, be occupied by such persons. The calculation disregards any non-CDBG funds used for the rehabilitation. For example, if a structure containing ten units was rehabilitated at a CDBG cost of \$100,000 and seven of the units are occupied by low and moderate income persons after rehabilitation at affordable rents, only \$70,000 could be counted as benefiting low and moderate income persons.
3. Residential Rehabilitation - Section 570.901(b)(1)(iv) requires that for a unit to qualify as benefiting low and moderate income persons, the unit must be occupied by low and moderate income persons, except when the structure contains more than one dwelling unit. Thus, if single family residential structures are being rehabilitated, only those structures occupied by low and moderate income persons can qualify under this criterion. Any other single unit structures would have to meet the slum blight criteria in section 570.901(b)(2)(i)(A) or (B).

Also note that for multi-unit structures to meet the criteria, the units must be occupied by low and moderate income persons at affordable rents. To accomplish this, the State must adopt and make public its criteria for affordable rents.

E. Meeting National Objectives

1. In addition to the new principal benefit test applied to the overall program, each activity must still address one of the three national objectives. Therefore, any activity which does not benefit low

and moderate income persons under the standards in §570.901(b)(1) must qualify as an activity which meets one of the following national objectives:

- a. preventing or eliminating slums and blight, under the standards at §570.901(b)(2), or
- b. meeting community development needs having a particular urgency under the standards at §570.901(b)(3). For urgent needs, the activity must be designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which is of recent origin or recently became urgent; the recipient is unable to finance the activity on its own, and other resources to finance the activity are not available. Recent origin is defined as a condition that developed, or became critical, within 18 months of the certification. The State must retain documentation justifying its certifications.

II. Community Development Plan

This section covers the certifications and requirements for the State's community development plan, as well as the certification the State must make for its recipients of funds.

A. Content of Community Development Plan

1. Section 104(c) of the 1983 Amendments adds a new section 104(b) to the Act, which requires each State to certify that it has developed a community development plan. The plan must identify the State's community development and housing needs, and specify the State's long-and short-term community development objectives. The objectives must be developed in accordance with the primary objective (principal benefit requirement) and other requirements of Title I. The plan must cover the same period the State specifies in its certification for the principal benefit requirement.
2. For purposes of the community development plan and the principal benefit requirement, the period will be defined by grant allocation(s). For example, if a State selects one year's allocation, the plan and the principal benefit test will apply to the activities carried out with that allocation, regardless of how long it takes to complete those activities.

B. State Certifications Concerning Units of Local Government

1. Section 106(f) of the 1983 Amendments adds section 106(d)(2)(D) to the Act, which provides that in order for the State to receive and distribute funds, the Governor must certify that each unit of general local government to be distributed funds will be required to identify its housing and community development needs, including those of low and moderate income persons, and the activities to be undertaken to meet such needs.
2. The State may determine how it will require the units of general local government to identify needs, and the extent to which the activities shall be described by localities. In States which have already made selections for FY 84, recipients must meet the requirements before any further steps can be taken in the funding process. For FY 85 and beyond, States may not announce any selections of recipients before these certifications are made.

III. Public Participation

A. Additional Requirements in Preparing and Submitting Statements

Section 104(b)(2) of the 1983 Amendments adds the following requirements to section 104(a)(2)(A) of the Act for the State to provide additional information to citizens, and where appropriate, units of general local government, in the process of preparing and submitting its statements:

1. The estimated amount of funds proposed to be used for activities that will benefit low and moderate income persons;

The State's plans for minimizing displacement of persons as a result of CDBG activities and for assisting persons actually displaced.

B. Certification

The certification of the State required pursuant to section 104(b)(1) of the Act, the public participation requirements, encompasses these additional requirements. States that have already submitted their certifications for FY 84 must submit a new public participation certification, along with the other new certifications, that this additional requirement has been met. If, for example, the information regarding the amount of funds available, proposed activities, and range of eligible activities

was provided previously, only the information concerning program funds to benefit low and moderate income persons and plans for minimizing displacement and assisting displaced persons needs to be provided.

C. Requirements for Access to Records and for Amendments.

Section 104(b)(5) of the 1983 Amendments also adds section 104(a)(2)(D) and (E) to the Act, which respectively require the State to provide citizens and, where appropriate, units of general local government:

1. access to records on the past use of funds.
2. reasonable notice of, and an opportunity to comment on, any proposed substantial changes in the use of funds.

IV. Eligible Activities

A. Certification

Section 106(e) of the 1983 Amendments amends section 106(d)(2)(C) of the Act to provide that, in order to receive and distribute funds, the Governor is required to certify that the State will not refuse to distribute funds to a unit of general local government on the basis of the particular eligible activity selected by the locality to meet its community development needs. The new provision states that it may not be considered to prevent the State from establishing priorities in distributing funds on the basis of the activities selected. The State could, therefore, give certain types of activities priority or design a selection system in which certain activities may not compete as effectively as others. All submissions that propose activities eligible under section 105 must nevertheless be considered during the State's selection process. A State cannot advise cities that any activity listed in section 105 and otherwise eligible under Subpart C of the regulations is ineligible or will not be considered.

B. Applicability of Subpart C Regulations

The provisions of the regulations in Subpart C, Eligible Activities, §570.200 through 570.207, apply to the eligibility of activities in the State program except where they are inconsistent with the 1983 Amendments or other State Program statutory provisions. In addition, OMB Circulars A-102 and A-87 remain inapplicable under the OMB exemptions except to the extent provided in the preamble to Subpart I that the States must apply equivalent procedures of their own for financial management and control of the

program. References to "recipient" in Subpart C are applicable to units of general local government.

§570.200 applies subject to the following modifications and exceptions:

§570.200(a)(2) is superseded by the 1983 Amendments and the new requirements are set forth in Program Design Considerations, IE of these instructions.

§570.200(a)(4), (d)(2), and (f(1)(ii) dealing with OMB Circulars do not apply.

§570.200(a)(5), (h), and (i) do not apply.

§570.200(c) applies as modified in Submission Requirements and HUD Actions, II of these instructions.

§570.200(e) applies except that a determination is no longer required under §570.201(c)(1).

Other changes to Subpart C are described below in C through G.

C. Public Facilities

1. Section 105(a) of the 1983 Amendments changes section 105(a)(2) and (a)(14) to make buildings for the general conduct of government ineligible. Section 102(e) of the 1983 Amendments adds a new section 102(a)(21) to the Act which defines buildings for the general conduct of government as "city halls, county administrative buildings, State capitol or office buildings, or other facilities in which the legislative or general administrative affairs of government are conducted. Such term does not include facilities such as neighborhood service centers or special purpose buildings located in low and moderate income areas that house various nonlegislative functions or services provided by governments at decentralized locations." This new definition supersedes the description of "buildings for the general conduct of government" at §570.207(a)(1) of the current regulations. Previously, these types of public facilities were not specifically prohibited in section 105, and had been undertaken by some State recipients.
2. Section 105(a) of the 1983 Amendments revises section 105(a)(2) of the Act to remove certain restrictions placed on some public facilities that linked their eligibility to either location in a community development area or the lack of other sources of funds. These restrictions have been removed.

Therefore, §570.201(c)(1) and (2) are no longer applicable. The activities affected are parks, playgrounds, river reclamation, flood and drainage, parking lots, fire protection, solid waste disposal and recycling or conversion facilities. However, the restrictions will continue to apply to FY 82 and FY 83 funds.

D. Section 17 Housing

Section 302(a) of the 1983 Amendments adds a new section 105(a)(18) to the Act which allows CDBG funds to be used for the development or rehabilitation of housing assisted under Section 17 of the United States Housing Act of 1937. These are the rental rehabilitation and housing development programs included in Title III of the 1983 Amendments. Until the Department issues implementing regulations for these programs, further information will not be available.

E. Public Services

Section 105(b)(1)(A) of the 1983 Amendments amends section 105(a)(8) of the Act to increase the percentage of each grant that a unit of general local government can use for public services from ten to fifteen percent. The ten percent limitation in §570.201(e)(2) of the regulations is no longer applicable. The provision at §570.201(e)(3) also does not apply. The new exception to the percentage limitation in section 105(a)(8) of the Act (see section 105(b)(1)(B) of the 1983 Amendments) applies to those recipients that were authorized to exceed the previous ten percent limitation in FY 83 for their Block Grant funds exclusive of funds under the Jobs Bill. These recipients may use more than fifteen percent in FY 84 and beyond by using the same percentage or the same dollar amount, whichever is higher, as they used in FY 83. Because the Act clearly sets the limitations, States may not set lower levels. The requirements at §570.201(e)(1) remain unchanged.

F. Shared Housing for Elderly Persons

105(d) of the 1983 Amendments adds a new provision under section 105(a)(15) of the Act which authorizes grants to nonprofit organizations to assist in the development of shared housing opportunities (except new housing construction) for elderly persons. Elderly persons are those defined in section 3(b)(3) of the United States Housing Act of 1937.

SUBMISSION REQUIREMENTS AND HUD ACTIONS

I. Proposed and Final Statements

A. Contents

1. All of the requirements described below for the Final Statement will also apply to the proposed Statement. The Statement, as in the past, must contain the State's community development objectives and method of distribution. In addition, the new requirements added to section 104(a) of the Act by section 104(a) of the 1983 Amendments provide that, beginning with FY 84, the Statement must also include:
 - a. a description of the use of funds under each previous allocation;
 - b. an assessment of the relationship of the use of funds to the community development objectives identified by the State in each prior Final Statement; and,
 - c. an assessment of the relationship of the use of funds to the requirements of section 104(b)(3) of the Act, as they existed at the time of the certification.
2. Because the statute requires a separate description of the past use of funds, States may not simply reference their annual reports. They may, however, attach the annual report or selected excerpts.
3. For the FY 84 Statement, the description must include both FY 82 and FY 83 grants if the State administered the program in those years. Each year's grant should be identified and accounted for separately. HUD must wait until the new requirement has been complied with before making a grant. States that have already published their FY 84 Statements may publish the description and assessment for comment independently and submit the information as an addendum to their Final Statements. Beginning in FY 85, and for subsequent years, the description shall cover the use of each year's grant since preparation of the previous Final Statement.

II. Additional New Certifications

In addition to certifications discussed in Section I, under Program Design Considerations, and the previously required certifications, the Act adds several new certifications for States.

A. Special Assessment

1. Provisions of the Certification - section 104(c) of the 1983 Amendments adds a new section 104(b)(5) to the Act which requires grantees to submit a new certification prohibiting the recovery of capital costs for public improvements financed in whole or part with CDBG funds, through assessments against properties owned and occupied by low and moderate income persons. The prohibition applies also to any fees charged or assessed as a condition of obtaining access to the public improvements.
2. Exceptions to the Requirement - The first sentence of \$570.200(c)(2) of the regulations prohibits levying special assessments to recover any CDBG funds used to pay for public improvements, and remains applicable. There are, however, two exceptions or circumstances in which an assessment or fee may be made to recover the non-CDBG share of the capital cost:
 - a. Where funds received under the State's CDBG allocation are used to pay the proportion of a fee or assessment against properties owned and occupied by low and moderate income persons. (Such payments are eligible CDBG activities subject to the provisions of \$570.200(c)(3) of the regulations); or
 - b. Where the grantee certifies that it lacks sufficient CDBG funds to comply with the requirements of a, above, for the payment of assessments against properties owned and occupied by persons of low and moderate income who are not very low income (i.e., not below 50 percent of median). In this case, the assessment may be made against such properties without paying for the assessment with CDBG funds.
3. Certification by Recipient Units of General Local Government - Section 106(i) of the 1983 Amendments adds section 106(d)(5)(D) to the Act which prohibits the State from distributing funds to recipients unless the unit of local government submits an identical certification concerning assessments to the State.
4. Timing of the Certification - The State's certification is required at the time it submits the Final Statement. Units of local government must make their certification to the State before the State can distribute funds to them. States may decide how they want to implement this provision, and the extent to which they wish to rely on certifications or require supporting documentation. For purposes of the local

government certification, the test for availability of CDBG funds is limited to those CDBG grant funds the recipient receives from the State, not the total State allocation.

B. Affirmatively Furthering Fair Housing

Section 104(c)(1) of the 1983 Amendments adds language to the civil rights certification required by section 104(b)(2) of the Act for compliance with Title VI and Title VIII, that the grantee will affirmatively further fair housing. Section 106(i) of the 1983 Amendments adds a requirement in section 106(d) of the Act that the same civil rights certification must be made to the State by a unit of general local government before it may receive funds.

C. Reasonable Benefits to Persons Involuntarily and Permanently Displaced

Section 104(g) of the 1983 Amendments adds a new section 104(j) to the Act, which requires grantees to provide reasonable benefits to those persons involuntarily and permanently displaced as a result of CDBG assistance to acquire or substantially rehabilitate property. This provision applies to all displacement with respect to residential and non-residential property not governed by the Uniform Relocation Act. States should define the standards they will use for determining reasonable benefits for their recipients under this requirement.

D. Deletion of The Ten Percent Match

Section 106(1) of the 1983 Amendments deleted section 106(d)(2)(C)(iii) of the Act which required States to provide a ten percent match of community development resources as a "buy-in" provision. States must continue to maintain records for the match required for previous allocations. If a State has already submitted this certification for FY 84, you should advise the State that because of the statutory changes the obligations under the certification are annulled.

III. Requirements for Units of General Local Government

A. Certifications

Section 106(i) of the 1983 Amendments added section 106(d)(5) to the Act which requires units of general local government to make certain certifications to the State. The certifying official must have sufficient authority to make such certifications on behalf of the unit of government. The State may not distribute funds unless the unit of government has submitted certifications providing essentially that:

1. it will minimize displacement as a result of activities assisted with CDBG funds;
2. it will conduct and administer its program in conformance with Title VI and Title VIII, and affirmatively furthering fair housing;
3. it will provide opportunities for citizen participation comparable to the State's requirements (those described in Section 104(a)(2) of the Act, as amended);
4. it will not use assessments or fees to recover the capital costs of CDBG - funded public improvements from low and moderate income owner occupants, as described in II A, above.

B. Submission of Certification in FY 84

Where States have not distributed FY funds, they should request their recipients to submit the appropriate certifications, including the citizen participation certification, before disbursing funds. However, if a State has already selected its FY 84 recipients, then it should receive those new certifications before permitting local governments to spend CDBG funds.

IV. HUD Reviews and Actions

A. Processing Instructions

Attachment 3 provides detailed processing instructions for FY 84. These, together with the guidance in the memorandum, should minimize any undue delays in awarding grants.

B. HUD Actions on the Community Development Plan.

1. HUD will review the State certification on the community development plan in the same manner as other certifications. Certifications will be accepted, unless there is substantial evidence to challenge their validity, as provided in §570.490(c) of Subpart I.
2. The community development plan does not have to be submitted with the Final Statement, but must be retained in State files. HUD will review the plan later only to ensure that it has the necessary elements.

PROGRAM IMPLEMENTATION

I. Recordkeeping

A. Establishing Records

24 CFR Subpart I, §570.497(a) and (b) contain recordkeeping requirements. Because of the 1983 Amendments, States should review the statutory changes in order to determine what additional records are necessary to support the new requirements at both the State and local level. The records to be maintained by the State and the State's recipients must be sufficient to demonstrate that the requirements have been satisfied and to enable the Secretary to carry out his responsibilities under section 104(d). States are responsible for advising their recipients of the new requirements and any additional recordkeeping responsibilities.

B. Access to State Records

§470.497(c) of the State Block Grant regulations requires that the States, and units of general local government receiving funds, must provide reasonable access to records on the past use of CDBG funds to representatives of the Secretary, the Inspector General and the General Accounting Office. This may be done by making public the location of such records, and any procedures for obtaining copies or examining records on site. Section 104(b)(5) of the Amendments expands on this at section 104(a)(2)(D) by requiring that citizens or, as appropriate, units of general local government have reasonable access to records regarding the past use of funds.

II. Reporting

A. Uniform Procedures

Section 104(e) of the 1983 Amendments which amends section 104(d) of the Act requires the Department to develop uniform recordkeeping, auditing and performance requirements for States and for units of general local government by November 30, 1984. In developing these requirements, the Department must consult with various public interest groups to obtain recommendations. Following acceptance of these recommendations, the Department will establish mandatory requirements.

B. Performance and Evaluation Report

1. Section 104(e) of the 1983 Amendments modifies section 104(d) of the Act to require the performance report to include evaluation. In addition, the Act expands the content of the report. Beginning with FY 84, the report must include:
 - a description of the use of funds;
 - programmatic accomplishments;
 - assessment of the relationship of the use of funds to the State's objectives;
 - assessment of the relationship of the use of funds to the requirements of Section 104(b)(3)
 - the nature of, and reasons for, changes in the State's program objectives, if applicable;
 - indications of how the State would change its program as a result of its experiences;
 - evaluation of the extent to which the funds were used for activities that benefited low and moderate income persons; and,
 - summary of any comments received by the State from citizens regarding the State's program.

Until the uniform reporting procedures are developed, States may continue to follow the COSCAA format or their own format in developing the annual report. However, the report must include the information specified in the Act. We hope to have the new report format available before the next annual report is due.

2. Section 104(e) of the 1983 Amendments adds a new provision in section 104(d) that requires the State to give citizens in its jurisdictions an opportunity to comment on the annual performance and evaluation report. The State will determine the manner in which and the times when this report will be available.

III. Fiscal Requirements

A. Program Income

- 1.. Section 104(g) of the 1983 Amendments adds a new provision at section 104(i) of the Act which governs the use of program income and which clearly indicates that program income may be used only for eligible activities and in accordance with the provisions of Title I. All the requirements placed on regular CDBG funds at 24 CFR Subpart I, §570.494 will continue to apply to program income except for §570.494(b)(2). This coverage will continue as long as a contractual obligation exists between HUD and the State, or the State and a recipient, as appropriate.

2. The new section 104(i) of the Act permits a State to require a unit of general local government, as a condition of receiving its grant, to return any program income to the State. The State may then use the program income to fund additional eligible community development activities. However, section 104(i) requires States to waive this condition "to the extent such income is applied to continue the activity from which such income was derived". In which case, cities will be permitted to retain the income.

B. Administrative Costs

1. Section 106(g) of the 1983 Amendments amends section 106(d)(3)(A) to permit States to use up to \$100,000 of their FY 84 CDBG funds for administrative purposes without a match. The regulations at \$570.493 are not changed by the 1983 Amendments. In addition to this amount, the State may use up to two percent of its total allocation. However, it must match the amount over \$100,000 with an equal amount of State funds.
2. The State and its recipients are allowed to spend up to an aggregate amount of twenty percent of the State's allocation for planning, management and administrative costs. The \$100,000, as well as the two percent, are counted in the twenty percent limitation.
3. States must continue to maintain records on administrative costs, including the \$100,000.

C. Disbursements for Lump Sum Drawdowns

Section 104(f) of the 1983 Amendments adds a new time requirement to section 104(g)(1) which governs lump sum payments used by recipients to establish revolving loan funds to finance rehabilitation. Substantial disbursements from such a fund must begin within 180 days after receipt of payment. The existing provisions of section 104(g)(1) continue to apply to the State Program.

D. Amendments

1. Amending the Final Statement - Section 104(b)(5) of the 1983 Amendments adds a new section 104(a)(2)(E) to the Act regarding substantial changes in the use of funds and amending the Final Statement. States must give citizens or, as appropriate, units of general local government, reasonable notice and an opportunity to comment on any substantial change proposed in the use of funds. Section 104(b)(6) of

the 1983 Amendments adds a new provision to section 104(a)(2) of the Act and provides that if the State amends its Final Statement, it must consider comments from citizens and units of general local government, make the modified Final Statement available to the public, and submit a copy of the modified Final Statement to HUD.

2. Amending local programs - Section 106(i) of the 1983 Amendments adds a provision at section 106(d)(5)(C) of the Act which requires a recipient to certify that it will provide opportunities for citizen participation that are comparable to those required of States by section 104(a)(2). Therefore, the amendment requirement will also apply to any unit of general local government which proposes to change its program.

E. Reallocation

1. Section 106(d) of the Amendments now adds a requirement at section 106(d)(2)(A)(ii) which makes the decision by a State to administer the funds after FY 84 permanent and final.
2. Section 106(h) of the 1983 Amendments amends section 106(d)(3)(C) of the Act which contains the reallocation provisions. Beginning in FY 85, if a State administers the program, but subsequently fails to meet the submission requirements in a future fiscal year, the State's allocation will then be reallocated among all States in the succeeding fiscal year. This means that if a State decides in FY 85 to administer the program, and changes it's mind in FY 86, HUD will not administer the program in that State. Instead, the funds will be reallocated to all States in the succeeding year.
3. Section 106(h) of the Amendments now requires that all funds recaptured from HUD-administered Small Cities grants, either because of closeout or failure to perform, will be made available to the State in which the small city is located in the same year in which the funds are recaptured.

APPENDIX D

SUMMARY OF PAST GRANT AWARDS

The Housing and Urban-Rural Recovery Act of 1983 requires, beginning with Fiscal Year 1984, that the State's CDBG guidelines include:

1. a description of the use of funds under each previous CDBG allocation;
2. an assessment of the relationship of the use of CDBG funds to the State community development objectives described in each of the two previous year's State CDBG guidelines; and
3. an assessment of the relationship of the use of the CDBG funds to the three primary national objectives of the Housing and Community Development Act:
 - A. to benefit low and moderate income families;
 - B. to aid in the prevention or elimination of slums or blight; and
 - C. to meet other community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

In responding to this new requirement, the Department of Commerce has prepared a summary of each of the CDBG awards made by it to date, including a summary of the State CDBG objective(s) met by the project and the national objective(s) cited by the grantee as the principal purpose of its project.

FISCAL YEAR 1982 GRANT AWARDS

The State's objectives for the Fiscal Year 1982 Montana CDBG Program were as follows:

Economic Development

Create increased economic opportunities for low and moderate income persons through:

1. central business district revitalization,
2. development of alternative energy or other community resources,
3. expansion of existing businesses or creation of new businesses and industries,
4. industrial site development and land assemblage,
5. loans to encourage private participation in development projects, or
6. improvements to public facilities necessary for business or industrial development.

Housing

Preserve and upgrade housing stock for low and moderate income persons through:

7. rehabilitation of existing housing through loans, grants, or a combination thereof,
8. demolition of substandard housing and relocation of residents,
9. weatherization and energy efficiency measures,
10. code enforcement activities, or
11. land assemblage and site preparation for new construction.

Public Facilities

Support improvements to public facilities where needed to:

12. improve the living environment of low and moderate income families,
13. support housing and neighborhood revitalization,
14. support economic development and increased employment opportunities,
15. arrest or eliminate blight, or
16. correct existing conditions which pose a serious and immediate threat to the health or welfare of the community.

The projects awarded Fiscal Year 1982 CDBG funds by the Montana Department of Commerce were as follows:

NAME OF GRANTEE: Town of Alberton
TYPE OF PROJECT: Housing
AMOUNT OF CDBG AWARD: \$400,000
POPULATION: 368 (1980 census)

PROJECT DESCRIPTION: The grant is being used to rehabilitate 33 substandard houses occupied by low and moderate income (LMI) families on the west side of Alberton, where 93% of the housing is substandard and 85% of the population is LMI. This will be accomplished through low interest loans and grants.

RELATIONSHIP TO STATE OBJECTIVES: The Alberton project will preserve and upgrade existing housing stock for low and moderate income persons through:

- (1) rehabilitation of existing housing through loans, grants, or a combination thereof;
- (2) weatherization and energy efficiency measures; and
- (3) code enforcement activities.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Alberton Housing Rehabilitation Program will benefit low and moderate income persons by providing decent housing.

NAME OF GRANTEE: Big Horn County
TYPE OF PROJECT: Public Facilities - Water
AMOUNT OF CDBG AWARD: \$245,236
POPULATION: 82 persons (25 Households) in Wyola (local survey)

PROJECT DESCRIPTION: The grant is being used to make major improvements to the water system serving the unincorporated community of Wyola, where 100% of the population is low and moderate income. A new supply is being developed and deteriorated water mains are being replaced. This will solve the existing problem of the lines breaking. When lines break, the community is without water for several days, and the water can become contaminated when septic tank effluent seeps into the lines through the breaks.

RELATIONSHIP TO STATE OBJECTIVES: The Wyola project will:

- (1) improve the living environment of low and moderate income families; and
- (2) correct existing conditions which pose a serious and immediate threat to the health or welfare of the community.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Wyola Water System Project will benefit low and moderate income households and will eliminate an immediate health threat.

NAME OF GRANTEE: Town of Culbertson
TYPE OF PROJECT: Public Facilities - Water
AMOUNT OF CDBG AWARD: \$400,000
POPULATION: 887 (1980 census)

PROJECT DESCRIPTION: The grant will be used to make major improvements to the Culbertson water system. Culbertson will modify the water intake from the Missouri River, construct a new water treatment plant and storage tank, and replace existing water transmission lines. Culbertson's water presently is in serious violation of the Safe Drinking Water Act. The improvements will solve the problem of contaminated water. Funding from CDBG will be used to pay the special assessments of Culbertson's low and moderate income residents.

RELATIONSHIP TO STATE OBJECTIVES: The Culbertson project will:

- (1) improve the living environment of low and moderate income families; and
- (2) correct an existing condition which poses a serious and immediate threat to the health of the community.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Culbertson CDBG project will eliminate an immediate health threat while providing maximum financial benefit to low and moderate income families.

NAME OF GRANTEE: Judith Basin County on behalf of the
unincorporated community of Geyser
TYPE OF PROJECT: Public Facilities - Sewer
AMOUNT OF CDBG AWARD: \$102,106
POPULATION: 175 (local survey)

PROJECT DESCRIPTION: The grant is being used to construct a new sewage treatment system in Geyser. The project involves collection, storage lagoons and spray irrigation. The CDBG money is being added to the amount provided by EPA to make the project financially feasible for the community. Wastewater has been treated by individual septic tanks and drainfields which often fail due to impermeable soils. The project will eliminate the problem of raw wastewater backing up into basements and surfacing during most of the year. It will also protect the groundwater and water supply from pollution by sewage.

RELATIONSHIP TO STATE OBJECTIVES: The Geyser project will:

- (1) improve the living environment of low and moderate income families; and
- (2) correct an existing condition which pose a serious and immediate threat to the health of the community.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Geyser Sewer Project will eliminate an immediate health threat in the community. The infusion of CDBG dollars will substantially reduce the financial burden for this state-mandated system on Geyser's low and moderate income residents.

NAME OF GRANTEE: City of Lewistown
TYPE OF PROJECT: Public Facilities - Sewer
AMOUNT OF CDBG AWARD: \$343,975
POPULATION: 7,104 (1980 census)

PROJECT DESCRIPTION: The grant will be used toward designing and constructing a secondary waste-water treatment facility. This will involve upgrading preliminary treatment facilities and constructing components of the new secondary sewage treatment plan. Lewistown's existing treatment facility provides only primary treatment of sewage discharged into Big Spring Creek. The project is needed to improve water quality of the creek, which upstream from plant is designated as a "blue ribbon" stream. CDBG funds will be used in conjunction with locally-raised funds (over \$1 million) and an Environmental Protection Agency Construction Grant (\$4.6 million), which is administered by the Montana Department of Health and Environmental Sciences.

RELATIONSHIP TO STATE OBJECTIVES: The Lewistown project will:

- (1) improve the living environment of low and moderate income families; and
- (2) correct an existing condition which pose a serious and immediate threat to the health of the community.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Lewistown Sewer Project will eliminate an immediate health threat in the community. The participation of CDBG will reduce the financial burden for this system on the City's low and moderate income residents.

NAME OF GRANTEE: Madison County
TYPE OF PROJECT: Public Facilities - Solid Waste
AMOUNT OF CDBG AWARD: \$81,073
POPULATION: 5,448 (1980 census)

PROJECT DESCRIPTION: The grant is being used to institute a county-wide solid waste management system. CDBG money will be used to acquire 12 rural transfer sites and pay the one-time special tax assessment for low and moderate income property owners. The project also involves purchasing a landfill compactor, truck and hoist, and developing the rural transfer sites. Eight of the County's nine landfills do not meet standards. Health and safety are threatened by open burning, possible groundwater pollution, and harboring of disease. The landfill at Ennis, which does meet standards, would be the central collection point.

RELATIONSHIP TO STATE OBJECTIVES: The Madison County project will:

- (1) improve the living environment of low and moderate income families; and
- (2) correct an existing condition which pose a serious and immediate threat to the county residents.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Madison Solid Waste Project will eliminate an immediate health threat in the community. The CDBG contribution to the project will be used to fund the capitalization costs for low and moderate income persons.

NAME OF GRANTEE: Town of Moore
TYPE OF PROJECT: Public Facilities - Sewer
AMOUNT OF CDBG AWARD: \$105,169
POPULATION: 229 (1980 census)

PROJECT DESCRIPTION: The grant is being used to construct a new sewage treatment system in Moore. The project will involve collection, a storage lagoon, and spray irrigation. The CDBG money is being added to the amount provided by EPA to make the project financially feasible for the community. Wastewater is currently disposed of into cess pools, pumped into abandoned water wells, or treated by individual septic tanks and drainfields which often fail due to impermeable soils. The project will eliminate the seasonal problem of raw wastewater backing up into basements and surfacing in drainages, and protect the groundwater and water supply from pollution by sewage.

RELATIONSHIP TO STATE OBJECTIVES: The Moore project will:

- (1) improve the living environment of low and moderate income families; and
- (2) correct an existing condition which pose a serious and immediate threat to the health of the community.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Moore Sewer Project will eliminate an immediate health threat in the community. The infusion of CDBG dollars will substantially reduce the financial burden for this "state mandated" system on Moore's low and moderate income residents.

NAME OF GRANTEE: Powell County
TYPE OF PROJECT: Public Facilities - Solid Waste
AMOUNT OF CDBG AWARD: \$108,900
POPULATION: 2,935 - Excluding Deer Lodge (1980 census)

PROJECT DESCRIPTION: The grant is being used to establish a county-wide solid waste management system. CDBG money is being used to acquire and develop six rural transfer sites near each of Powell County's unincorporated communities, and purchase the collection containers. The containers will be picked up and hauled to an approved landfill once a week. Present dump sites violate state standards. Most are located in drainage ways and have poor soils. The grant will provide for proper disposal of solid waste.

RELATIONSHIP TO STATE OBJECTIVES: The Powell County solid waste management project will correct an existing condition that poses an immediate health threat to county residents.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Powell County Project will:

- (1) improve the living environment of low and moderate income families; and
- (2) correct an existing condition which poses a serious and immediate threat to the health of county residents.

NAME OF GRANTEE: City of Roundup
TYPE OF PROJECT: Housing
AMOUNT OF CDBG AWARD: \$400,000
POPULATION: 2,119 (1980 census)

PROJECT DESCRIPTION: The grant is being used to rehabilitate up to 36 substandard houses occupied by low and moderate income families. It will involve two neighborhoods on the south side of Roundup, where 89 percent of the houses are substandard and 68% of the population is low and moderate income. This will be accomplished through a program of low interest and deferred loans. The program also involves demolition of ten severely substandard housing units.

RELATIONSHIP TO STATE OBJECTIVES: The Roundup project will preserve and upgrade housing stock for low and moderate income persons through:

- (1) rehabilitation of existing housing through loans, grants, or a combination thereof;
- (2) demolition of substandard housing;
- (3) weatherization and energy efficiency measures; and
- (4) code enforcement activities.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Roundup Housing Rehabilitation Program will benefit low and moderate income persons by providing decent housing.

NAME OF GRANTEE: Town of St. Ignatius
TYPE OF PROJECT: Housing
AMOUNT OF CDBG AWARD: \$400,000
POPULATION: 877 (1980 census)

PROJECT DESCRIPTION: The grant is being used to rehabilitate up to 32 substandard houses occupied by low and moderate income families. In an eleven-block area in St. Ignatius, where 76% of the houses are substandard and 83% of the population is low and moderate income. This is being accomplished through a program of grants and low interest loans. The program allows for owners to do some of the rehabilitation work.

RELATIONSHIP TO STATE OBJECTIVES: The St. Ignatius project will preserve and upgrade housing stock for low and moderate income persons through:

- (1) rehabilitation of existing housing through loans, grants, or a combination thereof;
- (2) weatherization and energy efficiency measures; and
- (3) code enforcement activities.

RELATIONSHIP TO NATIONAL OBJECTIVES: The St. Ignatius Housing Rehabilitation Program will benefit low and moderate income persons by providing decent housing.

NAME OF GRANTEE: Sheridan County on behalf of the
unincorporated community of Antelope
TYPE OF PROJECT: Public Facilities - Water and Sewer
AMOUNT OF CDBG AWARD: \$190,020
POPULATION: 100 (local survey)

PROJECT DESCRIPTION: The grant will be used to provide water and sewer systems for Antelope. The water system will include a new well, storage tank, distribution and service lines. The sewage system will include sewer lines, collection and lagoon. The CDBG money will be used to pay for assessments against property owned by low and moderate income persons. Water is currently being hauled in or comes from wells subject to contamination from improperly treated sewage. Individual septic tanks and drainfields often fail due to impermeable soils, causing raw sewage to flow in ditches along streets. These problems will be eliminated by the new water and sewage treatment systems.

RELATIONSHIP TO STATE OBJECTIVES: The Antelope project will: and
(1) improve the living environment of low and moderate income families; and
(2) correct existing conditions which pose serious and immediate threats to the health of the community.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Antelope Water and Sewer Project will eliminate an immediate health threat while providing maximum feasible benefit to low and moderate income persons. Rehabilitation Program will benefit low and moderate income persons by providing decent housing.

NAME OF GRANTEE: Sweet Grass County
TYPE OF PROJECT: Economic Development
AMOUNT OF CDBG AWARD: \$334,071
POPULATION: 3,216 (1980 census)

PROJECT DESCRIPTION: The grant is being used to encourage economic development in Sweet Grass County. A major portion of the grant is financing sewer, water and street improvements to a manufacturing-industrial site located east of Big Timber. The grant also is providing money for Sweet Grass County to loan to the C. Sharps Arms County, Inc., to construct a new building and locate their manufacturing plant on the site. The loan will be repaid to the County and placed in a special fund for use in further CDBG eligible economic development activities.

RELATIONSHIP TO STATE OBJECTIVES: The Sweet Grass project will create increased economic opportunities for low and moderate income persons through:
(1) creation of new businesses and industries;
(2) industrial site development;
(3) loans to encourage private participation in development projects; and
(4) improvements to public facilities necessary for business or industrial development.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Sweet Grass County project will provide economic opportunities, principally for persons of low and moderate income.

NAME OF GRANTEE: Town of Winnett
TYPE OF PROJECT: Public Facilities - Water Economic
AMOUNT OF CDBG AWARD: \$359,270
POPULATION: 270 (1980 census)

PROJECT DESCRIPTION: The grant is being used to make major improvements to the Winnett water system. A new well will be provided and deteriorated water mains will be replaced and looped. This will solve the existing problem of lines breaking 50 times per year. When lines break, the community is without water until repairs can be made, and contaminated groundwater can seep into the broken pipes. Improvements to the water system will also improve the fire protection capability.

RELATIONSHIP TO STATE OBJECTIVES: The Winnett project will:

- (1) improve the living environment of low and moderate income families; and
- (2) correct an existing condition which poses a serious and immediate threat to the health of the community.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Winnett water project will eliminate an immediate health threat in the community. The participation of CDBG will substantially reduce the financial burden for this system on the town's low and moderate income residents.

FISCAL YEAR 1983 GRANT AWARDS

The State's objectives for the Fiscal Year 1983 Montana CDBG Program were as follows:

Program Design

1. To the extent possible within the requirements of federal and state statutes and regulations, and where consistent with other state policies for housing and economic and community development, create CDBG application and administrative requirements which provide flexibility for communities to design projects which meet local community development needs.
2. To provide fair and equitable program requirements that assure equal opportunity to CDBG assistance, regardless of project category or status of applicant.
3. To encourage community development activities which are consistent with local planning efforts.
4. To provide CDBG assistance to those communities whose projects most effectively address local needs and the purposes of the Montana CDBG program.

Coordination of Resources

5. To encourage the commitment and coordination of other available public or private resources for community development projects.
6. To encourage coordination and cooperation between the Montana CDBG Program and other local, state and federal agencies for the purposes of joint funding, technical assistance, and project evaluation, management, and monitoring.

Technical Assistance

7. To increase local capabilities for grant application and administration by providing technical assistance, particularly to local governments with limited financial or staff resources.
8. To provide technical assistance to communities with limited resources to help assure a more equal competition among applicants for CDBG funds.

Housing and Community Revitalization

9. To provide decent, safe, sanitary and energy efficient housing, especially for persons of low and moderate income, by improving the condition of existing housing stock.
10. To eliminate blighting conditions by supporting community and neighborhood revitalization efforts.

Economic Development

11. To encourage viable economic development projects that expand local tax bases and provide long-term jobs with growth potential, principally for low and moderate income persons.

Public Facilities

12. To assist communities in providing appropriate, complete and long-term solutions to serious deficiencies in public facilities.

1983 JOBS BILL CDBG PROGRAM

NAME OF GRANTEE: Town of Alberton
TYPE OF PROJECT: Public Facilities - Park Construction
AMOUNT OF CDBG AWARD: \$215,000
POPULATION: 368 (1980 census)

PROJECT DESCRIPTION: The grant is being used to purchase a portion of the abandoned railroad property located in the town limits. The land is being developed into a community park and recreation area. The proposed project also includes site preparation, park facilities and rehabilitation of 2 historic structures on the property to be used for community activities.

RELATIONSHIP TO STATE OBJECTIVES: The Alberton "Jobs Bill" project will improve the living environment of low and moderate income persons while providing productive employment for the jobless and construction of lasting value.

RELATIONSHIP TO NATIONAL OBJECTIVES: The project will provide employment for low and moderate income persons and will eliminate blight.

NAME OF GRANTEE: Anaconda-Deer Lodge
TYPE OF PROJECT: Public Facilities - Curbs and Gutters
AMOUNT OF CDBG AWARD: \$96,034
POPULATION: 12,518 (1980 census)

PROJECT DESCRIPTION: This project was scaled down from Anaconda's original request of \$250,000 due to lack of funds. The project is replacing between 10,000 and 12,000 linear feet of combined curb and gutter in the portion of the city referred to as "Goosetown."

RELATIONSHIP TO STATE OBJECTIVES: The Anaconda project will improve the living environment of a low and moderate income neighborhood while providing productive employment for the jobless.

RELATIONSHIP TO NATIONAL OBJECTIVES: The project will provide employment for low and moderate income persons and will eliminate blight.

NAME OF GRANTEE: Butte-Silver Bow
TYPE OF PROJECT: Public Facilities - Sidewalk Construction
AMOUNT OF CDBG AWARD: \$250,000
POPULATION: 38,092 (1980 census)

PROJECT DESCRIPTION: This project is replacing approximately 55,000 square feet of sidewalks and upgrading the "Missoula Gulch" storm sewer system.

RELATIONSHIP TO STATE OBJECTIVES: The Butte-Silver Bow "Jobs Bill" program will improve the living environment of a low and moderate income neighborhood while providing productive employment for the jobless.

RELATIONSHIP TO NATIONAL OBJECTIVES: The project will provide employment for low and moderate income persons and will eliminate blight.

NAME OF GRANTEE: Cascade County
TYPE OF PROJECT: Public Facilities - Community Center
AMOUNT OF CDBG AWARD: \$249,700
POPULATION: 80,696 in Cascade County (1980 census);
approximately 407 households in Black Eagle
(local survey)

PROJECT DESCRIPTION: This project is providing physical improvements to the former Anaconda Minerals Company employee's club in Black Eagle. This includes a new heating plant; energy efficient modifications, and improvements to provide access to the handicapped. The structure will be used as a community center by Black Eagle residents.

RELATIONSHIP TO STATE OBJECTIVES: The project will improve the living environment for low and moderate income persons while providing productive employment for the jobless and construction of lasting value.

RELATIONSHIP TO NATIONAL OBJECTIVES: The project will provide employment for low and moderate income households and provide job opportunities for the unemployed.

NAME OF GRANTEE: City of Missoula
TYPE OF PROJECT: Housing Rehabilitation
AMOUNT OF CDBG AWARD: \$227,500
POPULATION: 33,388 (1980 census)

PROJECT DESCRIPTION: The City of Missoula is rehabilitating twenty-seven apartment units in five buildings in the core of the central business district. All of these units are substandard; twenty-one are occupied, twenty of these by low income households. In conjunction with the "Jobs Bill" program the Missoula Redevelopment Agency is making an additional \$100,000 available for exterior improvements.

RELATIONSHIP TO STATE OBJECTIVES: The project will provide decent housing for low and moderate income persons while providing productive employment for the jobless.

RELATIONSHIP TO NATIONAL OBJECTIVES: The project will benefit low and moderate income households and provide employment opportunities for the jobless.

NAME OF GRANTEE: Town of Plains
TYPE OF PROJECT: Public Facilities - Street Reconstruction
AMOUNT OF CDBG AWARD: \$244,766
POPULATION: 1,116 (1980 census)

PROJECT DESCRIPTION: The Town of Plains is reconstructing all streets in the community. This includes foundation restoration, leveling, and surface treatment.

RELATIONSHIP TO STATE OBJECTIVES: The Plains "Jobs Bill" project will improve the living environment of low and moderate income persons while providing productive employment for the jobless.

RELATIONSHIP TO NATIONAL OBJECTIVES: The project will provide employment for low and moderate income persons and will eliminate blight.

1983 REGULAR CDBG PROGRAM

NAME OF GRANTEE: City of Kalispell
TYPE OF PROJECT: Comprehensive: Housing and Economic Development
TOTAL PROJECT COST: \$5,209,000
AMOUNT OF CDBG AWARD: \$1,500,000 (\$500,000 per year for 3 years)
OTHER PUBLIC FUNDS: \$ 403,000
PRIVATE FUNDS: \$3,126,000
POPULATION: 10,526

PROJECT DESCRIPTION: This comprehensive project consists of three components: (1) Housing rehabilitation grants and low-interest loans would be offered in a neighborhood adjacent to the central business district with a high concentration of substandard homes and low and moderate income residents. CDBG funds would be used to subsidize interest rates for the loans; the loans would be handled through two local lenders. The project will make possible the rehabilitation of approximately 90 housing units.

(2) Subsidized low-interest commercial rehabilitation loans would be offered in Kalispell's downtown redevelopment area in cooperation with a local lender; receipt of loans would be contingent upon creation of jobs for low and moderate income persons by the assisted businesses.

(3) A new manufacturing enterprise would be established under the direction of Flathead Industries, primarily for handicapped and low and moderate income persons, using CDBG funds and a \$200,000 grant from the U.S. Department of Health and Human Services. Thirty jobs

will be created, two-thirds of which will be for low and moderate income persons. Flathead Industries has developed a hiring plan to recruit low and moderate income applicants for the new positions.

The project activities will take place either wholly or partially in the designated redevelopment area of central Kalispell.

RELATIONSHIP TO STATE OBJECTIVES: The Kalispell project will:

- (1) provide decent, safe, sanitary and energy efficient housing, especially for persons of low and moderate income, by improving the condition of existing housing stock;
- (2) eliminate blighting conditions by supporting a community and neighborhood revitalization efforts; and
- (3) encourage a viable economic development project that will expand the local tax base and provide long-term jobs with growth potential, principally for low and moderate income persons.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Kalispell project will:

- (1) benefit low and moderate income families.

<u>NAME OF GRANTEE:</u>	Hill County
<u>TYPE OF PROJECT:</u>	Comprehensive: Public Facilities and Economic Development
<u>TOTAL PROJECT COST:</u>	\$17,917,496
<u>AMOUNT OF CDBG AWARD:</u>	\$1,500,000 (\$500,000 per year for 3 years)
<u>OTHER PUBLIC FUNDS:</u>	\$ 157,196
<u>PRIVATE FUNDS:</u>	\$16,260,300
<u>POPULATION:</u>	17,358

PROJECT DESCRIPTION: CDBG funds would be used for the following activities:

First year -- The project will rebuild the Milk River weir which diverts water to Havre's water treatment plant. The weir supplies almost two-thirds of Havre's water supply which, in turn, supplies water to the County industrial park. The weir, built in 1972, has been 70% destroyed by spring high-water flows despite past city efforts to make remedial repairs. The weir could fail in any period of high flow. The provision of a dependable water supply for industrial park is the first step in Hill County's comprehensive strategy for supporting local economic development.

Second year -- The county will expand its industrial park by the addition of 20 acres to be donated by Big Bud Tractors. The county would use CDBG funds to construct a building to be used as a paint shop which would meet production goals and OSHA standards which they are in violation of now. The company does not have the necessary capital to construct the facility because it is involved in an approved Chapter 11 reorganization plan.

Third year -- Big Bud, with financial support from Borg-Warner, will acquire Friggstad Manufacturing, the current occupant of the county's industrial park. Big Bud would assume the lease and form a new division to produce tractor-earth scraper units. During the third year, the county will construct a bonded warehouse in the industrial park with CDBG funds, which would eliminate freight and supply problems that previously plagued the Big Bud operation and other local manufacturers.

The three-year project will result in the retention of 39 existing jobs and the creation of 175 new jobs, 123 of which would be suitable for low and moderate income. Hill County has developed a hiring and training plan to recruit and train low and moderate income for the new jobs to be created.

RELATIONSHIP TO STATE OBJECTIVES: The Hill County project will:

- (1) encourage a viable economic development project that will expand local tax bases and provide long-term jobs with growth potential, principally for low and moderate income persons; and
- (2) assist a community in providing an appropriate, complete and long-term solution to a serious deficiency in a public facility.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Hill County project will:

- (1) meet a community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs; and
- (2) benefit low and moderate income families.

<u>NAME OF GRANTEE:</u>	Town of Flaxville
<u>TYPE OF PROJECT:</u>	Public Facilities - Water
<u>TOTAL PROJECT COST:</u>	\$71,850
<u>AMOUNT OF CDBG AWARD:</u>	\$21,850
<u>OTHER PUBLIC FUNDS:</u>	\$50,000
<u>POPULATION:</u>	142

PROJECT DESCRIPTION: The Town of Flaxville will create a new water source for the community by drilling a new 1,000 foot deep well and abandoning their present wells. The current supply has an extremely high nitrate level considered by the State Department of Health and Environmental Sciences as an outstanding and immediate health threat. The purpose of the application is to respond to a public health threat.

RELATIONSHIP TO STATE OBJECTIVES: The Flaxville project will assist a community in providing an appropriate, complete and long-term solution to a serious deficiency in a public facility.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Flaxville project will: meet a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

NAME OF GRANTEE: Miles City
TYPE OF PROJECT: Housing Rehabilitation
TOTAL PROJECT COST: \$412,800
AMOUNT OF CDBG AWARD: \$400,000
OTHER PUBLIC FUNDS: \$ 12,800
POPULATION: 9,602

PROJECT DESCRIPTION: The project will rehabilitate 39 substandard homes owned by low and moderate income families in a neighborhood with a high concentration of low and moderate income households and substandard homes.

RELATIONSHIP TO STATE OBJECTIVES: The Miles City project will:

- (1) provide decent, safe, sanitary and energy efficient housing, especially for persons of low and moderate income, by improving the condition of existing housing stock; and
- (2) eliminate blighting conditions by supporting community and neighborhood revitalization efforts.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Miles City project will benefit low and moderate income families.

NAME OF GRANTEE: Mineral County (St. Regis)
TYPE OF PROJECT: Housing Rehabilitation
TOTAL PROJECT COST: \$400,000
AMOUNT OF CDBG AWARD: \$400,000
POPULATION: 3,675

PROJECT DESCRIPTION: Loans and grants will be made to low and moderate income families residing in substandard homes in St. Regis. The target area has the highest percentage of low and moderate income families and substandard households in the St. Regis area. The County proposes to rehabilitate all 33 substandard homes owned or rented by low and moderate income families in the target area.

RELATIONSHIP TO STATE OBJECTIVES: The Mineral County project will:

- (1) provide decent, safe, sanitary and energy efficient housing, especially for persons of low and moderate income, by improving the condition of existing housing stock; and
- (2) eliminate blighting conditions by supporting community and neighborhood revitalization efforts.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Mineral County project will benefit low and moderate income families.

NAME OF GRANTEE: Town of Dodson
TYPE OF PROJECT: Housing Rehabilitation
TOTAL PROJECT COST: \$400,000
AMOUNT OF CDBG AWARD: \$400,000
POPULATION: 158

PROJECT DESCRIPTION: Loans and grants will be made to low and moderate income families residing in substandard homes in Dodson. The Town will rehabilitate 30 substandard housing units and acquire and demolish 7 abandoned, dilapidated structures. The project area is the entire town.

RELATIONSHIP TO STATE OBJECTIVES: The Dodson project will:

- (1) provide decent, safe, sanitary and energy efficient housing, especially for persons of low and moderate income, by improving the condition of existing housing stock; and
- (2) eliminate blighting conditions by supporting community and neighborhood revitalization efforts.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Dodson project will benefit low and moderate income families.

NAME OF GRANTEE: Town of Joliet
TYPE OF PROJECT: Public Facilities - Sewer
TOTAL PROJECT COST: \$648,745
AMOUNT OF CDBG AWARD: \$229,090
OTHER PUBLIC FUNDS: \$419,655
POPULATION: 580

PROJECT DESCRIPTION: The proposed project entails construction of a new secondary sewage treatment facility for the Town of Joliet, involving aerated lagoons and a retention pond. Deficiencies in the existing system cause a discharge into Rock Creek, in violation of State water quality standards. The project will require acquisition of 10 acres and involve \$419,655 in EPA funding. The principal purpose of the application is to respond to a public health threat.

RELATIONSHIP TO STATE OBJECTIVES: The Joliet project will assist a community in providing an appropriate, complete and long-term solution to a serious deficiency in a public facility.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Joliet project will meet a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

<u>NAME OF GRANTEE:</u>	City of Three Forks
<u>TYPE OF PROJECT:</u>	Public Facilities - Water
<u>TOTAL PROJECT COST:</u>	\$628,000
<u>AMOUNT OF CDBG AWARD:</u>	\$400,000
<u>OTHER PUBLIC FUNDS:</u>	\$228,000
<u>POPULATION:</u>	1,247

PROJECT DESCRIPTION: The City of Three Forks will construct a new water supply, using shallow wells next to the Jefferson River or an infiltration gallery in the river; a pumping station and a transmission line from the pumping station to the existing distribution system.

The stated purpose of the application is to respond to a public health threat due to arsenic contamination of the existing water source (located on the Madison River drainage). The Department of Health and Environmental Sciences has ranked the health threat as immediate and outstanding. Further, the community is under sanction by the department to resolve the problem by January 1, 1984.

RELATIONSHIP TO STATE OBJECTIVES: The Three Forks project will assist a community in providing an appropriate, complete and long-term solution to a serious deficiency in a public facility.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Three Forks project will meet a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

<u>NAME OF GRANTEE:</u>	Cascade County (Vaughn-Cascade County Water and Sewer District)
<u>TYPE OF PROJECT:</u>	Public Facilities - Water
<u>TOTAL PROJECT COST:</u>	\$825,000
<u>AMOUNT OF CDBG AWARD:</u>	\$362,000
<u>OTHER PUBLIC FUNDS:</u>	\$463,000
<u>POPULATION:</u>	661

PROJECT DESCRIPTION: The Cascade County (on behalf of the Vaughn-Cascade Water and Sewer District) proposes to refurbish the deteriorated Vaughn water supply distribution system. Natural oxidation and sulphur corrosion to the old metallic mains have deteriorated to the extent that the community often experiences negative water line pressure. The project involves CDBG and FmHA grant and loan monies. The project is justified on the basis of benefit to low and moderate income families. The Department of Health and Environmental Sciences has classified the public health threat as "above average."

RELATIONSHIP TO STATE OBJECTIVES: The Vaughn project will assist a community in providing an appropriate, complete and long-term solution to a serious deficiency in a public facility, and benefit low and moderate income families.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Vaughn project will meet a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

<u>NAME OF GRANTEE:</u>	Town of Thompson Falls
<u>TYPE OF PROJECT:</u>	Housing Rehabilitation
<u>TOTAL PROJECT COST:</u>	\$410,000
<u>AMOUNT OF CDBG AWARD:</u>	\$400,000
<u>OTHER PUBLIC FUNDS:</u>	\$ 10,000
<u>POPULATION:</u>	1,478

PROJECT DESCRIPTION: The project will consist of grants or loans to low and moderate income households living in substandard housing in a 22 block area of Thompson Falls. The Town will rehabilitate 36 homes.

RELATIONSHIP TO STATE OBJECTIVES: The Thompson Falls project will:

- (1) provide decent, safe, sanitary and energy efficient housing, especially for persons of low and moderate income, by improving the condition of existing housing stock; and
- (2) eliminate blighting conditions by supporting community and neighborhood revitalization efforts.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Thompson Falls project will benefit low and moderate income families.

<u>NAME OF GRANTEE:</u>	City of Harlem
<u>TYPE OF PROJECT:</u>	Public Facilities - Sewer
<u>TOTAL PROJECT COST:</u>	\$405,320
<u>AMOUNT OF CDBG AWARD:</u>	\$115,955
<u>OTHER PUBLIC FUNDS:</u>	\$289,365
<u>POPULATION:</u>	1,023

PROJECT DESCRIPTION: The project, involving CDBG and EPA funds, will construct a sanitary sewer collection system for the north side of Harlem, including connections for low and moderate income households. This is part of a larger EPA project involving construction of a new wastewater treatment facility to serve the entire city. The principal purpose of the application is to benefit low and moderate income households.

RELATIONSHIP TO STATE OBJECTIVES: The Harlem project will assist a community in providing an appropriate, complete and long-term solution to a serious deficiency in a public facility, and benefit low and moderate income families.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Harlem project will meet a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

<u>NAME OF GRANTEE:</u>	City of Malta
<u>TYPE OF PROJECT:</u>	Housing Rehabilitation
<u>TOTAL PROJECT COST:</u>	\$400,000
<u>AMOUNT OF CDBG AWARD:</u>	\$400,000
<u>POPULATION:</u>	2,367

PROJECT DESCRIPTION: The City will rehabilitate 33 substandard housing units occupied by low and moderate income families within a 15-block "target area" of Malta, through grants and low interest loans. Preference will be given as follows:

- 1st -- handicapped
- 2nd -- elderly
- 3rd -- female - headed households

RELATIONSHIP TO STATE OBJECTIVES: The Malta project will:

- (1) provide decent, safe, sanitary and energy efficient housing, especially for persons of low and moderate income, by improving the condition of existing housing stock; and
- (2) eliminate blighting conditions by supporting community and neighborhood revitalization efforts.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Malta project will benefit low and moderate income families.

<u>NAME OF GRANTEE:</u>	City of Shelby
<u>TYPE OF PROJECT:</u>	Housing Rehabilitation
<u>TOTAL PROJECT COST:</u>	\$1,080,000
<u>AMOUNT OF CDBG AWARD:</u>	\$ 400,000
<u>OTHER PUBLIC FUNDS:</u>	\$ 218,000
<u>PRIVATE FUNDS:</u>	\$ 680,000
<u>POPULATION:</u>	3,142

PROJECT DESCRIPTION: The project will provide grants and loans for housing rehabilitation to 40 qualified low and moderate income families in the south Shelby neighborhood. It would also remove 5 substandard nonresidential structures and demolish and clear the old city shop property. The shop site will then be sold to a private developer for the construction of 12 new family rental units for low and moderate income households.

RELATIONSHIP TO STATE OBJECTIVES: The Shelby project will:

- (1) provide decent, safe, sanitary and energy efficient housing, especially for persons of low and moderate income, by improving the condition of existing housing stock; and
- (2) eliminate blighting conditions by supporting community and neighborhood revitalization efforts.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Shelby project will benefit low and moderate income families.

<u>NAME OF GRANTEE:</u>	Rosebud County (Ingomar Water and Sewer District)
<u>TYPE OF PROJECT:</u>	Public Facilities - Water and Sewer
<u>TOTAL PROJECT COST:</u>	\$188,262
<u>AMOUNT OF CDBG AWARD:</u>	\$166,262
<u>OTHER PUBLIC FUNDS:</u>	\$ 22,000
<u>POPULATION:</u>	46 (est.)

PROJECT DESCRIPTION: The project will develop a central water system for the community of Ingomar. Until 1980, Ingomar's water was delivered by the Milwaukee Railroad. Since closure of the railroad line in 1980, residents have hauled water from a community 40 miles away. The water is distributed to individual household cisterns. In 1982 the Department of Health and Environmental Sciences determined that the cisterns were contaminated. The project will involve pumping water from storage tank, then piping it to town and through a new distribution system to households. The principal purpose of the application is to respond to a public health threat

RELATIONSHIP TO STATE OBJECTIVES: The Ingomar project will assist a community in providing an appropriate, complete and long-term solution to a serious deficiency in a public facility.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Ingomar project will meet a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

<u>NAME OF GRANTEE:</u>	Anaconda-Deer Lodge County
<u>TYPE OF PROJECT:</u>	Public Facilities - Sewer Project
<u>TOTAL PROJECT COST:</u>	\$4,140,800
<u>AMOUNT OF CDBG AWARD:</u>	\$ 400,000
<u>OTHER PUBLIC FUNDS:</u>	\$3,740,800
<u>POPULATION:</u>	10,403

PROJECT DESCRIPTION: The project entails construction of a new secondary sewage treatment facility for Anaconda. It will include an outfall line which will replace an open sewage ditch; aerated lagoons, and infiltration basins for disposal of effluent. The project will require 90 acres of land and involve \$3.74 million in EPA funds. The principal purpose of the application is to respond to a public health threat.

RELATIONSHIP TO STATE OBJECTIVES: The Anaconda-Deer Lodge project will assist a community in providing an appropriate, complete and long-term solution to a serious deficiency in a public facility.

RELATIONSHIP TO NATIONAL OBJECTIVES: The Anaconda-Deer Lodge project will meet a community development need having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs.

APPENDIX E

MONTANA DEPARTMENT OF COMMERCE

STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

STATEMENT OF ASSURANCES

Each applicant must agree to comply with all applicable State and federal laws and regulations in implementing their proposed CDBG project, if it is selected for funding. Listed in the following Statement of Assurances are the most important federal regulations that apply to projects using CDBG funds. They cover a wide range of issues including environmental impacts, labor standards, employment practices, financial procedures, and civil rights, many of which can have an affect on the costs or complexity of project administration. Each federal law or regulation is annotated to give the applicant a general understanding of the requirements that must be met. Since this is a brief summary and not intended to be a comprehensive description of each law, local officials who have any questions or concerns regarding the applicability of these requirements should contact the Department for guidance.

MONTANA DEPARTMENT OF COMMERCE
STATE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

STATEMENT OF ASSURANCES

The Applicant hereby assures and certifies that:

Acceptance of Program Terms

It will comply with all applicable parts of Title I of the Housing and Community Development Act of 1974, as amended, which have not been cited herein as well as with other applicable laws and regulations.

It will comply with all requirements established by the Department of Commerce to ensure conformance to applicable laws, regulations, and administrative procedures.

It accepts the terms, conditions, selection criteria, and procedures established by the Montana Community Development Block Grant Program and expressly waives any statutory or common law right it may have to challenge the legitimacy and propriety of these terms, conditions, criteria, and procedures in the event that it is not selected for an award of CDBG funds.

Air Quality

It will comply with the Clean Air Act (42 U.S.C. 7401, et seq.) which prohibits engaging in, supporting in any way or providing financial assistance for, licensing or permitting, or approving any activity which does not conform to the State implementation plan for national primary and secondary ambient air quality standards.

Assessments for Public Improvements

It will not attempt to recover any capital costs of public improvements assisted in whole or part with CDBG funds by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless:

- (a) CDBG funds are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than CDBG funds; or,
- (b) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the applicant certifies that it lacks sufficient CDBG funds to comply with the requirements of clause (a), above.

Building Standards

It will require every building or facility (other than a privately owned residential structure) designed, constructed, or altered with funds provided under the Montana CDBG Program to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A-117.1R 1971, subject to the exceptions contained in CFR 101-19.604. The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor; and will comply with HUD Cost-Effective Energy Standards, 24 CFR Part 39.

Citizen Participation

It has provided or will provide citizens with adequate opportunity for meaningful participation in the planning and implementation of its CDBG project by:

- providing adequate notice for two or more public hearings;
- holding, at a minimum one public hearing before preparing the application to obtain views of citizens regarding community development needs and priorities, and one public hearing before submission of the application to explain the proposed project;
- furnishing citizens information concerning the amount of funds available for proposed community development and housing activities and the range of activities that may be undertaken, including the estimated amount to be used for activities that will benefit persons of low and moderate income, and the plans of the applicant for minimizing displacement of persons as a result of activities assisted with CDBG funds and to assist persons actually displaced as a result of CDBG - funded activities;
- providing citizens with reasonable access to records regarding the past use of CDBG funds; and
- providing citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of CDBG funds from one eligible activity to another.

Civil Rights

It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), and the regulations issued pursuant thereto (24 CFR Part 1), which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied in the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant received Federal financial assistance and will immediately take any measures necessary to effectuate this assurance. If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

Conflict of Interest

It will ensure that no member, officer, or employee of the applicant, or its designees or agents, no member of the governing body of the community in which the project is situated, and no other public official of the local government who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or sub-contract, or the proceeds thereof, for work to be performed in connection with the program assisted under the agreement. The grantee shall incorporate, or cause to be incorporated, in all such contracts or sub-contracts a provision prohibiting such interest.

Displacement and Relocation

It will minimize displacement as a result of activities assisted with CDBG funds.

It will comply with:

- Sections 301 and 302 of Title III (Uniform Real Property Acquisition Policy) of the Uniform Relocation Assistance and Real Property Policies Act of 1970 and will comply with Sections 303 and 304 of the Title III, and HUD implementing instructions contained in 24 CFR Part 42. The grantee must inform affected persons of their rights and of the acquisition policies and procedures set forth in the regulations of 24 CFR, Part 42 and 24 CFR 570.602(b).
- Title II (Uniform Relocation Assistance) of the Uniform Relocation Assistance and Property Acquisition Act of 1970 and HUD implementing regulations of 24 CFR Part 42 and 24 CFR 570.602(a) which require the Grantee to provide relocation payments and offer relocation assistance as described in Section 205 of the Uniform Relocation Assistance Act to all persons displaced as a result of acquisition of real property for an activity assisted under the CDBG Program. Such payments and assistance must be provided in a fair and consistent and equitable manner that ensures that the relocation process does not result in a different or separate treatment of such persons on account of race, color, religion, national origin, sex or source of income. The grantee must assure that, within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to all displaced families and individuals and that the range of choices available to such persons will not vary on account of their race, color, religion, national origin, sex or source of income.

Environmental Impact

It will comply with:

- Section 104(f) of the Housing and Community Development Act of 1974, as amended through 1981. This section expresses the intent that "the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act be most effectively implemented in connection with the expenditure of funds under" the Act. Such other provisions of law which further the purpose of the National Environmental Policy Act of 1969 are specified in regulations issued pursuant to Section 104(f) of the Act and contained in 24 CFR Part 58; and
- The National Environmental Policy Act of 1969 (42 U.S.C. Section 4321, et seq. and 24 CFR Part 58). The purpose of this Act is to attain the widest use of the environment without degradation, risk to health or safety or other undesirable and unintended consequences. Environmental review procedures are a necessary part of this process. Pursuant to these provisions, the grantee must also submit environmental certifications to the Department of Commerce when requesting that funds be released for the project. The grantee must certify that the proposed project will not significantly impact the environment and that the grantee has complied with environmental regulations and fulfilled its obligations to give public notice of the funding request, environmental findings and compliance performance.

Its chief executive officer or other officer of applicant approved by the State:

- (1) consents to assume the status of responsible federal official under the National Environmental Policy Act of 1969 (NEPA) and other provisions of federal law, as specified in 24 CFR Part 58, which further the purposes of NEPA, insofar as the provisions of such federal law apply to the Montana Community Development Block Grant Program; and
- (2) is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the federal courts for the purpose of enforcement of his responsibilities as such an official.

EPA List of Violating Facilities

It will ensure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the program are not listed on the U.S. Environmental Protection Agency's (EPA) List of Violating Facilities and that it will notify the Department of Commerce of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by EPA.

Equal Opportunity

It will comply with:

- Section 109 of the Housing and Community Development Act of 1974 (ACT), as amended, and the regulations issued pursuant thereto (24 CFR 570.601), which provides that no person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds provided under the Act;
- the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 et seq.) The act provides that no person shall be excluded from participation, denied program benefits or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance;
- Section 504 of the Rehabilitation Act of 1973, amended (29 U.S.C. 794). The act provides that no otherwise qualified individual shall, solely, by reason of his or her handicap, be excluded from participation (including employment), denied program benefits or subjected to discrimination under any program or activity receiving federal assistance funds;
- Section 3 of the Housing and Community Development Act of 1968 (12 U.S.C. 170/u) (24 CFR Part 135). Section 3 of the Housing and Urban Development Act of 1968 requires, in connection with the planning and carrying out of any project assisted under the Act, to the greatest extent feasible, opportunities for training and employment be given to lower-income persons residing within the unit of local government or the non-metropolitan county in which the project is located, and contracts for work in connection with the project be awarded to eligible business concerns which are located in, or owned in substantial part, by persons residing in the project area. The grantee must assure good faith efforts toward compliance with the statutory directive of Section 3; and
- Executive Order 11246, as amended by Executive Orders 11375 and 12086, and the regulations issued pursuant thereto (24 CFR Part 130 and 41 CFR Chapter 60) prohibit a CDBG recipient and subcontractors, if any, from discriminating against any employee or applicant for employment because of race, color, religion, sex or national origin. The grantee and subcontractors, if any, must take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action must include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training, including apprenticeship. The grantee and subcontractors must post in conspicuous places, available to employees and applicants for employment, notices to be provided setting for the

provisions of this nondiscrimination clause. For contracts over \$10,000 the grantee or subcontractors will send to each applicable labor union a notice of the above requirements, the grantee and subcontractors will comply with relevant rules, regulations and orders of the U.S. Secretary of Labor. The grantee or subcontractors must make their books and records available to State and federal officials for purposes of investigation to ascertain compliance.

Fair Housing

It will affirmatively further fair housing and will comply with:

- Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended. The law states that it is the policy of the United States to provide for fair housing throughout the United States and prohibits any person from discriminating in the sale or rental of housing, the financing of housing or the provision of brokerage services, including in any way making unavailable or denying a dwelling to any person, because of race, color, religion, sex or national origin. CDBG grantees must also administer programs and activities relating to housing and community development in a manner that affirmatively promotes fair housing and furthers the purposes of Title VIII; and
- Executive Order 11063, as amended by Executive Order 12259, requires CDBG recipients to take all actions necessary and appropriate to prevent discrimination because of race, color, religion, creed, sex or national origin; in the sale, leasing, rental and other disposition of residential property and related facilities (including land to be developed for residential use); or in the use or occupancy thereof if such property and related facilities are, among other things, provided in whole or in part with the aid of loans, advances, grants or contributions from the federal government.

Financial Management

It will comply with the applicable requirements of Office of Management and Budget (OMB) Circular A-102, "Uniform Requirements for Assistance to State and Local Governments," or any equivalent procedures and requirements that the Montana Department of Commerce may prescribe. The circular is the basis for a number of specific requirements on the financial management and recordkeeping of CDBG funds. The directive applies to cash depositories, bonding and insurance, recordkeeping, program income, property management, procurement, close-out, audit, and other requirements.

It will comply with the applicable requirements and policies of OMB Circular A-87, "Cost Principles for State and Local Governments," as specified by the Department of Commerce.

It will provide for an audit of the CDBG project upon completion of project activities by a certified public accountant whose services were secured through an open, competitive process and will promptly refund to the Montana Department of Commerce any CDBG funds determined to have been spent in an unauthorized or improper manner or for ineligible activities.

It will give the Montana Department of Commerce, HUD, the Comptroller General, and the Montana Legislative Auditor, through any authorized representatives, access to and the right to examine all records, books, papers, or documents related to the grant.

Floodplain Management and Wetlands Protection

It will comply with:

- the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1973. Section 102(a) required, on and after March 2, 1974, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance;
- Executive Order 11988, May 24, 1978: Floodplain Management (42 F.R. 26951, et seq.) The intent of this Executive Order is to (1) avoid, to the extent possible, adverse impacts associated with the occupancy and modification of floodplains and (2) avoid direct or indirect support of floodplain development wherever there is a practical alternative. If a grantee proposes to conduct, support or allow an action to be located in the floodplain, the grantee must consider alternatives to avoid adverse effects and incompatible involvement in the floodplains. If siting in a floodplain is the only practical alternative, the grantee must, prior to taking any action: (1) design or modify its actions in order to minimize a potential harm to the floodplain; and (2) prepare and circulate a notice containing an explanation of why the action is proposed to be located in a floodplain; and
- Executive Order 11990, May 24, 1977: Protection of Wetlands (42 F.R. 26961, et seq.). The intent of this Executive Order is to avoid adverse impacts associated with the destruction or modification of wetlands and direct or indirect support of new construction in wetlands, wherever there is a practical alternative. The grantee must avoid undertaking or providing assistance for new construction located in wetlands unless there is no practical alternative to such construction and the proposed action includes all practical measures to minimize harm to wetlands which may result from such use.

Historic Preservation

It will comply with:

- Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470, as amended) through completion of the procedures outlined in 36CFR800 and 36CFR63. Compliance with these procedures should include:
 - (1) consulting with the State Historic Preservation Office (SHPO) to identify properties listed in or eligible for inclusion in the National Register of Historic Places that exist with a proposed CDBG project's area of potential environmental impact; and
 - (2) consulting, as needed with the SHPO, Keeper of the National Register of Historic Places, and the Advisory council on Historic Preservation to evaluate the significance of historic or prehistoric properties which could be affected by CDBG work and to determine how to avoid or mitigate adverse effects to significant properties from project work.

Labor Standards

It will comply with:

- Section 110 of the Housing and Community Development Act of 1975, as amended, 24 CFR 570.605, and State regulations regarding the administration and enforcement of labor standards. Section 110 requires that all laborers and mechanics employed by contractors or subcontractors on construction work assisted under the Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276-a- 276a-5). By reason of the foregoing requirement the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) also applies. However, these requirements apply to rehabilitation of residential property only if such property is designed for residential use for eight or more families;

- Davis-Bacon Act, as amended (40 U.S.C. a- et seq.), Section 2; June 13, 1934, as amended (48 Stat. 948.40 U.S.C. 276(c)), popularly known as The Copeland Anti-Kickback Act. The Act mandates that all laborers and mechanics be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account except "permissible" salary deductions, the full amounts due at the time of payments, computed at wage rates not less than those contained in the wage determination issued by the U.S. Department of Labor. Weekly compliance statements and payrolls are required to be submitted to the federally-funded recipient by the contractor;
- Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.). According to the Act, no contract work may involve or require laborers or mechanics to work in excess of eight hours in a calendar day, or in excess of 40 hours in a work week, unless compensation of not less than one and one-half times the basic rate is paid for the overtime hours. If this Act is violated, the contractor or subcontractor is liable to any affected employee for unpaid damages as well as to the United States for liquidated damages; and
- Federal Fair Labor Standards Act, (29 U.S.C.S. 201 et seq.). The act requires that covered employees be paid at least the minimum prescribed wage, and also that they be paid one and one-half times their basic wage rate for all hours worked in excess of the prescribed work-week.

Lead Based Paint

It will comply with Title IV of the Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4831), which prohibits the use of lead-based paint in residential structures constructed or rehabilitated with federal assistance of any kind.

Legal Authority

It possesses legal authority to apply for the grant, to execute the proposed program, and if selected to receive a Community Development Block Grant will make all efforts necessary to assure timely and effective implementation of the project activities described in the attached application.

Noise

It will comply with HUD Environmental Standards (24 CFR, Part 51, Environmental Criteria and Standards and 44 F.R. 40860-40866, July 12, 1979) which prohibit HUD support for most new construction of noise-sensitive uses on sites having unacceptable noise exposure. HUD assistance for the construction of new noise-sensitive uses is prohibited in general for projects with unacceptable noise exposures and is discouraged for projects with normally unacceptable noise exposure.

Resolution of Authority

Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the submission of the application, including all understandings and assurances contained herein, and directing and authorizing the signator to act in connection with the application and to provide such additional information as may be required.

Solid Waste

It will comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901, et seq.). The purpose of this Act is to promote the protection of health and the environment and to conserve valuable material and energy resources.

Water Quality

It will comply with:

- the Safe Drinking Water Act of 1974 (42 U.S.C. Section 201, 300(f) et seq. and U.S.C. Section 349), as amended, particularly Section 1424(e) (42 U.S.C. Section 300H-303(e)) which is intended to protect underground sources of water. No commitment for federal financial assistance can be entered into for any project which the U.S. Environmental Protection Agency determines may contaminate an aquifer which is the sole or principal drinking water source for an area; and
- the Federal Water Pollution Control Act of 1972, as amended, including The Clear Water Act of 1977, Public Law 92-212 (33 U.S.C. Section 1251, et seq.) which provides for the restoration and maintenance of the chemical, physical and biological integrity of the nation's water.

Wildlife

It will comply with:

- the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The intent of this Act is to ensure that all federally assisted projects seek to preserve endangered or threatened species. Federally authorized and funded projects must not jeopardize the continued existence of endangered and threatened species or result in the destruction of or modification of habitat of such species which is determined by the U.S. Department of the Interior, after consultation with the state, to be critical; and
- the Fish and Wildlife Coordination Act of 1958, as amended, (U.S.C. 661 et seq.) which requires that wildlife conservation receives equal consideration and is coordinated with other features of water resource development programs.

Wild and Scenic Rivers

It will comply with the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271, et seq.). The purpose of this Act is to preserve selected rivers or sections of rivers in their free-flowing condition, to protect the water quality of such rivers and to fulfill other vital national conservation goals. Federal assistance by loan, grant, license or other mechanism can not be provided to water resources construction projects that would have a direct and adverse effect on any river included or designated for study or inclusion in the National Wild and Scenic River System.

Signature, Chief Elected Official

Name (typed or printed)

Title

Date

APPENDIX F

HOUSEHOLD INCOME UNITS FOR DETERMINATION OF LOW AND MODERATE INCOME STATUS

The Housing and Urban-Rural Recovery Act of 1983 established a standard definition of "low and moderate income" for CDBG purposes nationwide which is based on income guidelines used for the HUD Section 8 Assisted Housing Program. This is the same definition that Montana used for the 1982 and 1983 State CDBG Programs.

"Low and moderate income" is defined as a person or household whose total gross, unadjusted income does not exceed 80% of the median income for all persons or households in that county.

"Low income" is defined as a person or household whose total gross, unadjusted income does not exceed 50% of the median income for all persons or households in that county.

The following tables contain the 1983 HUD income limits for each Montana county and will be used to determine income eligibility for the purposes of applications by local governments for Fiscal Year 1984 CDBG funds. The first line listed for each county defines the upper limit for "low" income according to household size. The second line listed for each county defines the upper limit for "moderate" income according to household size.

HOUSEHOLD INCOME LIMITS

	MEDIAN INCOME	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS	
BEAVERHEAD	21200	Low Income	7400	8500	9550	10600	11450	12300	13150	14000
		Moderate Income	11850	13550	15250	16950	18000	19100	20150	21200
BIG HORN	20600	Low Income	7200	8250	9250	10300	11100	11950	12750	13600
		Moderate Income	11550	13200	14850	16500	17500	18550	19550	20600
BLAINE	19400	Low Income	6800	7750	8750	9700	10500	11250	12050	12800
		Moderate Income	10850	12400	13950	15500	16500	17450	18450	19400
BROADWATER	19600	Low Income	6850	7850	8800	9800	10600	11350	12150	12950
		Moderate Income	11000	12550	14100	15700	16650	17650	18600	19600
CARBON	20300	Low Income	7100	8100	9150	10150	10950	11750	12600	13400
		Moderate Income	11350	13000	14600	16250	17250	18250	19300	20300
CARTER	16800	Low Income	7350	8400	9450	10500	11350	12200	13000	13850
		Moderate Income	11750	13450	15100	16800	17850	18900	19950	21000
CASCADE	25300	Low Income	8850	10100	11400	12650	13650	14650	15700	16700
		Moderate Income	14150	16200	18200	20250	21500	22750	24050	25300
CHOUTEAU	22900	Low Income	8000	9150	10300	11450	12350	13300	14200	15100
		Moderate Income	12800	14650	16500	18300	19450	20600	21750	22900
CUSTER	24100	Low Income	8450	9650	10850	12050	13000	14000	14950	15900
		Moderate Income	13500	15400	17350	19300	20500	21700	22900	24100
DANIELS	20900	Low Income	7300	8350	9400	10450	11300	12100	12950	13800
		Moderate Income	11700	13400	15050	16700	17750	18800	19850	20900
DAWSON	25700	Low Income	9000	10300	11550	12850	13900	14900	15950	16950
		Moderate Income	14400	16450	18500	20550	21850	23150	24400	25700
DEER LODGE	24600	Low Income	8600	9850	11050	12300	13300	14250	15250	16250
		Moderate Income	13800	15750	17700	19700	20900	22150	23350	24600

		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS	
MEDIAN INCOME										
FALLON	24000	Low Income Moderate Income	8400 13450	9600 15350	10800 17300	12000 19200	12950 20400	13900 21600	14900 22800	15850 24000
FERGUS	20000	Low Income Moderate Income	7100 11400	8100 13000	91500 14600	10150 16250	10950 17250	11750 18300	12600 19300	13400 20300
FLATHEAD	24100	Low Income Moderate Income	8450 13500	9650 15400	10850 17350	12050 19300	13000 20500	14000 21700	14950 22900	15900 24100
GALLATIN	25000	Low Income Moderate Income	8750 14000	10000 16000	12500 18000	11250 20000	13500 21250	14500 22500	15500 23750	16500 25000
GARFIELD	17600	Low Income Moderate Income	6150 10450	7050 11900	7900 13400	8800 14900	9500 15850	10200 16750	10900 17700	11600 18650
GLACIER	20500	Low Income Moderate Income	7200 11500	8200 13100	9200 14750	10250 16400	11050 17400	11900 18450	12700 19450	13550 20500
GOLDEN VALLEY	16900	Low Income Moderate Income	6250 10450	7150 11900	8050 13400	8950 14900	9650 15850	10400 16750	11100 17700	11800 18650
GRANITE	20400	Low Income Moderate Income	7150 11400	8150 13050	9200 14700	10200 16300	11000 17350	11850 18350	12650 19400	13450 20400
HILL	26200	Low Income Moderate Income	9150 14650	10500 16750	11800 18850	13100 20950	14150 22250	15200 23600	16250 24900	17300 26200
JEFFERSON	25000	Low Income Moderate Income	8750 14000	10000 16000	11250 18000	12500 20000	13500 21250	14500 22500	15500 23750	16500 25000
JUDITH BASIN	19300	Low Income Moderate Income	6750 10800	7700 12350	8700 13900	9650 15450	10400 16400	11200 17350	11950 18350	12750 19300
LAKE	18700	Low Income Moderate Income	6550 10450	7500 11950	8400 13450	9350 14950	10100 15900	10850 16850	11600 17750	12350 18700
LEWIS & CLARK	27100	Low Income Moderate Income	9500 15200	10850 17350	12200 19500	13550 21700	14650 23050	15700 24400	16800 25750	17900 27100

	MEDIAN INCOME	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS	
LIBERTY	22700	Low Income Moderate Income	7950 12700	9100 14550	10200 16350	11350 18150	12250 19300	13150 20450	14050 21550	15000 22700
LINCOLN	22700	Low Income Moderate Income	8700 13600	9900 15500	11150 17450	12400 19400	13400 20600	14400 21850	15400 23050	16350 24250
McCONE	18700	Low Income Moderate Income	7150 11400	8150 13050	9200 14650	10200 16300	11000 17300	11850 18350	12650 19350	13450 20400
MADISON	19900	Low Income Moderate Income	6950 11150	7950 12750	8950 14350	9950 15900	10750 16900	11550 17900	12350 18900	13150 19900
MEAGHER	20500	Low Income Moderate Income	7200 11500	8200 13100	9200 14750	10250 16400	11050 17400	11900 18450	12700 19450	13550 20500
MINERAL	22400	Low Income Moderate Income	7850 12550	8950 14350	10100 16150	11200 17900	12100 19050	13000 20150	13900 21300	14800 22400
MISSOULA	25800	Low Income Moderate Income	9050 14450	10300 16500	11600 18600	12900 20650	13950 21950	14950 23200	16000 24500	17050 25800
MUSSELSHELL	18500	Low Income Moderate Income	6500 10450	7400 11900	8300 13400	9250 14900	10000 15850	10750 16750	11450 17700	12200 18650
PARK	23600	Low Income Moderate Income	8250 13200	9450 15100	10600 17000	11800 18900	12750 20050	13700 21250	14650 22400	15600 23600
PETROLEUM	16100	Low Income Moderate Income	6250 10450	7100 11900	8000 13400	8900 14900	9600 15850	10300 16750	11050 17700	11750 18650
PHILLIPS	18000	Low Income Moderate Income	6300 10450	7200 11900	8100 13400	9000 14900	9700 15850	10450 16750	11150 17700	11900 18650
PONDERA	25500	Low Income Moderate Income	8950 14300	10200 16300	11450 18350	12750 20400	13750 21650	14800 22950	15800 24200	16850 25500
POWDER RIVER	23100	Low Income Moderate Income	8100 12950	9250 14800	10400 16650	11550 18500	12450 19650	13400 20800	14300 21950	15250 23100

		1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS
MEDIAN INCOME									
POWELL	22400	Low Income	7850	8950	10100	11200	12100	13000	13900
		Moderate Income	12550	14350	16150	17900	19050	20150	21300
PRAIRIE	14000	Low Income	6300	7200	8100	9000	9700	10450	11150
		Moderate Income	10450	11900	13400	14900	15850	16750	17700
RAVALLI	20100	Low Income	7050	8050	9050	10050	10850	11650	12450
		Moderate Income	11250	12850	14450	16100	17100	18100	19100
RICHLAND	25800	Low Income	9050	10300	11600	12900	13950	14950	16000
		Moderate Income	14450	16500	18600	20650	21950	23200	24500
ROOSEVELT	21600	Low Income	7550	8650	9700	10800	11650	12550	13400
		Moderate Income	12100	13800	15550	17300	18350	19450	20500
ROSEBUD	25900	Low Income	9050	10350	11650	12950	14000	15000	16050
		Moderate Income	14500	16600	18650	20700	22000	23300	24600
SANDERS	18900	Low Income	7000	8000	9000	10000	10800	11600	12400
		Moderate Income	11200	12800	14400	16000	17000	18000	19000
SHERIDAN	22500	Low Income	8000	9100	10250	11400	12300	13200	14150
		Moderate Income	12800	14600	16400	18250	19400	20550	21650
SILVER BOW	25400	Low Income	8900	10150	11450	12700	13700	14750	15750
		Moderate Income	14200	16250	18300	20300	21600	22850	24150
STILLWATER	20100	Low Income	7050	8050	9050	10050	10850	11650	12450
		Moderate Income	11250	12850	14450	16100	17100	18100	19100
SWEET GRASS	18300	Low Income	6400	7300	8250	9150	9900	10600	11350
		Moderate Income	10450	11900	13400	14900	15850	16750	17700
TETON	21200	Low Income	7400	8500	9550	10600	11450	12300	13150
		Moderate Income	11850	13550	15250	16950	18000	19100	20150
TOOLE	22700	Low Income	7950	9100	10200	11350	12250	13150	14050
		Moderate Income	12700	14550	16350	18150	19300	20450	21550

	MEDIAN INCOME	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 OR MORE PERSONS	
TREASURER	18500	Low Income Moderate Income	6500 10450	7400 11900	8300 13400	9250 14900	10000 15850	10750 16750	11450 17700	12200 18650
VALLEY	22600	Low Income Moderate Income	7900 12650	9050 14450	10150 16250	11300 18100	12200 19200	13100 20350	14000 21450	14900 22600
WHEATLAND	19700	Low Income Moderate Income	6900 11050	7900 12600	8850 14200	9850 15750	10650 16750	11450 17750	12200 18700	13000 19700
WIBAUX	17900	Low Income Moderate Income	6750 10800	7700 12350	8700 13900	9650 15450	10400 16400	11200 17400	11950 18350	12750 19300
YELLOWSTONE	26800	Low Income Moderate Income	9400 15000	10700 17150	12050 19300	13400 21450	14450 22800	15550 24100	16600 25450	17700 26800

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